Supreme Court, U.S.
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No. 10-707

IN THE
Supreme Court of the United States

LORNA ROOS,

Petitioner,

v.

MICHAEL Y. ROOS,

Respondent.

On Petition For Writ Of Certiorari
To The
California Court Of Appeal,
Second Appellate District, Division Three

PETITION FOR WRIT OF CERTIORARI

LORNA ROOS IN PRO PER
1482 East Valley Road, #305
Santa Barbara, CA 93108
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QUESTIONS PRESENTED

Given that both parties in a case have been given ample time to raise their issues and objections, is it an abuse of discretion for a appeals court opinion to raise new issues and new case law (not proposed and or briefed in violation of California Government Code section 68081) that seeks to unlawfully eliminate valid evidence exists on the appellate record (as designated by Appellant pursuant to California Rules of the court 8.124 as the Appellant's Appendix [AA], the record on appeal without any objections filed by Respondent) in direct violation of Federal Rules of Appellate Procedure Circuit, Rule10 the Record on Appeal, on behalf of one party in the case? (Opinion – Appx- "A", AA 1305-1306)

Is it not a violation of due process and reversible error for the appellate court to fail to consider the body of evidence that was before the lower court at the time of judgment? (Fourteenth amendment, AA 174-1144)

Whether the lower court violated petitioner's rights under the Fourteenth Amendment to equal protection of their life, liberty, safety, security, tranquility, and property and violated the law by providing financial resources to hire an attorney for only one party in the dissolution of marriage (including support orders) Respondent, Mike Roos but not that of Petitioner, Lorna Roos?

QUESTIONS PRESENTED
Continued

How can a valid dissolution of marriage and division of assets occur, when trial briefs that were properly submitted and filed with the court (AA737,AA174) are now missing from the court docket (despite being filed on 3 separate occasions by Petitioner), and *no statement of decisions was ever rendered* on the final judgment? Given that no statement of decisions on the final judgment exists (despite a written request for a statement of decisions by petitioner AA734), does this omission by the court not violate the law (California Code of Civil Procedure 632) and the rights of petitioner to due process? When no basis for the decisions has been presented or recorded by the court, how can any such judgment ever be validly examined or challenged? (AA524-530)

Given that a party in an action (Appellant) has notified the court that the record is materially inaccurate (on several occasions), and presented valid court stamped proofs of service that critical evidence is missing from the record (AA736-738) (enabling false statements of facts to be used by the court as the basis of an opinion), at what point does a failure by the lower court and appeals court to investigate and correct the record constitute an abuse of discretion? At what point does this failure constitute judicial misconduct? (Oral Arguments 4/14/2010, AA625, Appellate Docket 6/17/09, 7/7/09 Appx-R)

QUESTIONS PRESENTED
Continued

Whether the lower court has jurisdiction over a District Attorney's child and spousal support arrearages case BD202859 and abused it's discretion when no parties signed a stipulation for such a transfer?

Whether the lower court violated petitioner's rights to at least one fair trial in the dissolution of marriage by permitting Respondent, Mike Roos to deliver his final declaration of disclosure after the first day of trial, March 9th , 2000 occurred (despite petitioner's objection on April 27th, 2000) in direct violation of California Family Code Section 2105 (preventing any discovery) and for allowing Respondent to turn over no tax returns (despite petitioner's subpoenaed requests and In-contempt charges filed) for support order hearings too in direct violation of California Family Code Section 3552 (a) ?

Whether the trial court abused it's discretion by failing to follow the law regarding undisclosed assets and income in the dissolution of marriage and on support orders by not applying severe sanctions to Respondent (for his breach of fiduciary duty, and for his intentional non-disclosure of assets and income) as stated under California Family Code Section 2120, 2121, 2122 (a) & (b), and as set forth in Sections 721, 1100, and 1101 of the Family Code, when the breach

QUESTIONS PRESENTED
Continued

falls within the ambit meaning of 3294 of the Civil Code?

LIST OF ALL PARTIES TO THE PROCEEDINGS

Pursuant to Rule 14.1(b), the parties here and in the proceeding in District Court is Petitioner, Lorna Roos, and Respondent, Michael Y. Roos. Pursuant to Rule 12.4 Petitioner's twin-sister, Leslie Stevenson Reilly is joined here within to this petition for certiorari. The trial court failed to join Leslie Reilly previously in violation of the law when she was tied to many financial transactions and interests of the community estate. The trial court failed to award Petitioner's twin-sister, Leslie Stevenson Reilly any of her separate property contributions made to the community and her separate investments made into Sacramento property (diverted to pay for the investment made into Commerce Casino Card Club). Leslie Stevenson Reilly is now being joined to this case as her separate property interests need to be protected, adjudicated, and awarded to her.

RULE 29.4 (a) & (c) FILING AND SERVICE OF DOCUMENTS; SPECIAL NOTIFICATIONS;

(a) May apply for criminal prosecution: service made on the Solicitor General of the United States, Room 5614, Department of Justice, 950 Pennsylvania Ave., N.W. Washington, D.C. 20530-0001

(c)May apply for criminal prosecution: service made on the Attorney General of the State of California

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No. 10 -

IN THE SUPREME COURT OF THE UNITED STATES

October Term 2010

LORNA ROOS,

Petitioner,

v.

MICHAEL Y. ROOS,

Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE COURT OF APPEAL OF THE STATE OF CALIFORNIA, SECOND APPELLATE DISTRICT, DIVISION THREE

Petitioner Lorna Roos respectfully prays that a Writ of Certiorari issue to review the decision of the California Court of Appeal entered on June 23rd, 2010.

OPINIONS BELOW

The California Court of Appeal issued its unpublished opinion in this case on June 23rd, 2010, with Presiding Justice J.KITCHING with P. J. KLEIN and J.CROSKEY both concurring. A copy of that opinion is attached as *Appendix A.*

On April 27th, 2009, the Superior Court of the State of California, County of Los Angeles issued a Order After Hearing and minute order 1. Petitioner's motion to set aside judgment is denied. 2. Respondent's motion to quash is granted. 3. Petitioner's ex-parte application to freeze assets is denied. A copy of that order is attached as *Appendix B.*

The California Supreme Court issued a one-page order denying discretionary review of the Court of Appeal's decision on September 1st, 2010. A copy of that order is attached as *Appendix C.*

The California Court of Appeal denied a Petition for rehearing and request for Judicial Notice on July 12th, 2010.

JURISDICTION

The California Supreme Court denied discretionary review on September,1st 2010. This Court has jurisdiction pursuant to 28 U.S.C. section 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

A. Federal Constitutional Provisions

The Fourteenth Amendment to the United States Constitution provides in pertinent part: "[n]or shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

B. Federal Rules of the court Appellate Procedure

The FRAP Circuit, Rule10 the Record on Appeal provides: "The Record on Appeal

(a) Composition of the Record on Appeal.

The following items constitute the record on appeal:

(1) the original papers and exhibits filed in the district court;

(2) the transcript of proceedings, if any; and

(3) a certified copy of the docket entries prepared by the district clerk.

(e) Correction or Modification of the Record.

(1) If any difference arises about whether the record truly discloses what occurred in the district court, the difference must be submitted to and settled by that court and the record conformed accordingly.

(2) If anything material to either party is omitted from or misstated in the record by error or accident, the omission or misstatement may be corrected and a supplemental record may be certified and forwarded:

(A) on stipulation of the parties;

(B) by the district court before or after the record has been forwarded; or

(C) by the court of appeals.

(3) All other questions as to the form and content of the record must be presented to the court of appeals."

C. State Statutory Provisions

California Government Code section 68081, provides: "Before the Supreme Court, a court of appeal, or the appellate division of a superior court renders a decision in a proceeding other than a summary denial of a petition for an extraordinary writ, based upon an issue which was not proposed or briefed by any party to the proceeding, the court shall afford the parties an opportunity to present their views on the matter through supplemental briefing. If the court fails to afford that opportunity, a rehearing shall be ordered upon timely petition of any party."

California Code of Civil Procedure Section 632, provides in relevant part: " In superior courts, upon the trial of a question of fact by the court, written findings of fact and conclusions of law shall not be required. The court shall issue a statement of decision explaining the factual and legal basis for its decision as to each of the principal controverted issues at trial upon the request of any party appearing at the trial. The request must be made within 10 days after the court announces a tentative decision unless the trial is concluded within one calendar day or in less than eight hours over more

than one day in which event the request must be made prior to the submission of the matter for decision. The request for a statement of decision shall specify those controverted issues as to which the party is requesting a statement of decision. After a party has requested the statement, any party may make proposals as to the content of the statement of decision....."

California Family Code Section 2105 provides in relevant part:

"(a) Except by court order for good cause, before or at the time the parties enter into an agreement for the resolution of property or support issues other than pendente lite support, or, if the case goes to trial, no later than 45 days before the first assigned trial date, each party, or the attorney for the party in this matter, shall serve on the other party a final declaration of disclosure and a current income and expense declaration, executed under penalty of perjury on a form prescribed by the Judicial Council, unless the parties mutually waive the final declaration of disclosure. The commission of perjury on the final declaration of disclosure by a party may be grounds for setting aside the judgment, or any part or parts thereof, pursuant to Chapter 10 (commencing with Section 2120), in addition to any and all other remedies, civil or criminal, that otherwise are available under law for the commission of perjury.

(b) The final declaration of disclosure shall include all of the following information:

(1) All material facts and information regarding the characterization of all assets and liabilities.

(2) All material facts and information regarding the valuation of all assets that are contended to be community property or in which it is contended the community has an interest.

(3) All material facts and information regarding the amounts of all obligations that are contended to be community obligations or for which it is contended the community has liability.

(4) All material facts and information regarding the earnings, accumulations, and expenses of each party that have been set forth in the income and expense declaration.

(c) In making an order setting aside a judgment for failure to comply with this section, the court may limit the set aside to those portions of the judgment materially affected by the nondisclosure.

(d) The parties may stipulate to a mutual waiver of the requirements of subdivision (a) concerning the final declaration of disclosure, by execution of a waiver under penalty of perjury entered into in open court or by separate stipulation. The waiver shall include all of the following representations:

(1) Both parties have complied with Section 2104 and the preliminary declarations of disclosure have been completed and exchanged.

(2) Both parties have completed and exchanged a current income and expense declaration, that includes all material facts and information regarding that party's earnings, accumulations, and expenses.

(3) Both parties have fully complied with Section 2102 and have fully augmented the preliminary declarations of disclosure, including disclosure of all material facts and information regarding the characterization of all assets and liabilities, the valuation of all assets that are contended to be community property or in which it is contended the community has an interest, and the amounts of all obligations that are contended to be community obligations or for which it is contended the community has liability.

(4) The waiver is knowingly, intelligently, and voluntarily entered into by each of the parties.

(5) Each party understands that this waiver does not limit the legal disclosure obligations of the parties, but rather is a statement under penalty of perjury that those obligations have been fulfilled. Each party further understands that noncompliance with those obligations will result in the court setting aside the judgment."

California Family Code Section 3552(a) provides:

"(a) In a proceeding involving child, family, or spousal support, no party to the proceeding may refuse to submit copies of the party's state and federal income tax returns to the court, whether individual or joint.

(b) The tax returns may be examined by the other party and are discoverable by the other party. A party also may be examined by the other party as to the contents of a tax return submitted pursuant to this section.

(c) If the court finds that it is relevant to the case to retain the tax return, the tax return shall be sealed and maintained as a confidential record of the court. If the court finds that the tax return is not relevant to disposition of the case, all copies of the tax return shall be returned to the party who submitted it."

California Family Code Section 2120, 2121, and 2122(a) & (b) provides in pertinent part:

"2120. The Legislature finds and declares the following:

(a) The State of California has a strong policy of ensuring the division of community and quasi community property in the dissolution of a marriage as set forth in Division 7 (commencing with Section 2500), and of providing for fair and sufficient child and spousal support awards. These policy goals can only be implemented with full disclosure of community, quasi-community, and separate assets, liabilities, income, and expenses, as provided in Chapter 9 (commencing with Section 2100), and decisions freely and knowingly made.

(b) It occasionally happens that the division of property or the award of support, whether made as a result of agreement or trial, is inequitable when made due to the nondisclosure or other misconduct of one of the parties.

(c) The public policy of assuring finality of judgments must be balanced against the public interest in ensuring proper division of marital property, in ensuring sufficient support awards, and in deterring misconduct.

(d) The law governing the circumstances under which a judgment can be set aside, after the time for relief under Section 473 of the Code of Civil Procedure has passed, has been the subject of considerable confusion which has led to increased litigation and unpredictable and inconsistent decisions at the trial and appellate levels.

2121. (a) In proceedings for dissolution of marriage, for nullity of marriage, or for legal separation of the parties, the court may, on any terms that may be just, relieve a spouse from a judgment, or any part or parts thereof, adjudicating support or division of property, after the six-month time limit of Section 473 of the Code of Civil Procedure has run, based on the grounds, and within the time limits, provided in this chapter.

(b) In all proceedings under this chapter, before granting relief, the court shall find that the facts alleged as the grounds for relief materially affected the original outcome and that the moving party would materially benefit from the granting of the relief.

2122. The grounds and time limits for a motion to set aside a judgment, or any part or parts thereof, are governed by this section and shall be one of the following:

(a) Actual fraud where the defrauded party was kept in ignorance or in some other manner, other than his or her own lack of care or attention, was fraudulently prevented from fully participating in the proceeding. An action or motion based on fraud shall be brought

within one year after the date on which the complaining party either did discover, or should have discovered the fraud.

(b) Perjury. An action or motion based on perjury in the preliminary or final declaration of disclosure or in the current income and expense statement shall be brought within one year after the date on which the complaining party either did discover, or should have discovered, the perjury."

California Family Code Section 1101 that includes family Codes 721 and 1100, and California Code of Civil procedure 3294 states in relevant part:

"(a) A spouse has a claim against the other spouse for any breach of the fiduciary duty that results in impairment to the claimant spouse's present undivided one-half interest in the community estate, including, but not limited to, a single transaction or a pattern or series of transactions, which transaction or transactions have caused or will cause a detrimental impact to the claimant spouse's undivided one-half interest in the community estate.

(b) A court may order an accounting of the property and obligations of the parties to a marriage and may determine the rights of ownership in, the beneficial enjoyment of, or access to, community property, and the classification of all property of the parties to a marriage.

(c) A court may order that the name of a spouse shall be added to community property held in the name of the other spouse alone or that

the title of community property held in some other title form shall be reformed to reflect its community character, except with respect to any of the following:

(1) A partnership interest held by the other spouse as a general partner.

(2) An interest in a professional corporation or professional association.

(3) An asset of an unincorporated business if the other spouse is the only spouse involved in operating and managing the business.

(4) Any other property, if the revision would adversely affect the rights of a third person.

(d) (1) Except as provided in paragraph (2), any action under subdivision (a) shall be commenced within three years of the date a petitioning spouse had actual knowledge that the transaction or event for which the remedy is being sought occurred.

(2) An action may be commenced under this section upon the death of a spouse or in conjunction with an action for legal separation, dissolution of marriage, or nullity without regard to the time limitations set forth in paragraph (1).

(3) The defense of laches may be raised in any action brought under this section.

(4) Except as to actions authorized by paragraph (2), remedies under subdivision (a) apply only to transactions or events occurring on or after July 1, 1987.

(e) In any transaction affecting community property in which the consent of both spouses is

required, the court may, upon the motion of a spouse, dispense with the requirement of the other spouse's consent if both of the following requirements are met:

(1) The proposed transaction is in the best interest of the community.

(2) Consent has been arbitrarily refused or cannot be obtained due to the physical incapacity, mental incapacity, or prolonged absence of the nonconsenting spouse.

(f) Any action may be brought under this section without filing an action for dissolution of marriage, legal separation, or nullity, or may be brought in conjunction with the action or upon the death of a spouse.

(g) Remedies for breach of the fiduciary duty by one spouse, including those set out in Sections 721 and 1100, shall include, but not be limited to, an award to the other spouse of 50 percent, or an amount equal to 50 percent, of any asset undisclosed or transferred in breach of the fiduciary duty plus attorney's fees and court costs. The value of the asset shall be determined to be its highest value at the date of the breach of the fiduciary duty, the date of the sale or disposition of the asset, or the date of the award by the court.

(h) Remedies for the breach of the fiduciary duty by one spouse, as set forth in Sections 721 and 1100, when the breach falls within the ambit of Section 3294 of the Civil Code shall include, but not be

limited to, an award to the other spouse of 100 percent, or an amount equal to 100 percent, of any asset undisclosed or transferred in breach of the fiduciary duty.

D. State Rules of Court

Calif. Rule 8.124 the "Appellant's Appendix" provides in relevant part:

"Rule 8.124. Appendixes

(a) Notice of election

(1) Unless the superior court orders otherwise on a motion served and filed within 10 days after the notice of election is served, this rule governs if:

(A) The appellant elects to use an appendix under this rule in the notice designating the record on appeal under rule 8.121; or

(B) The respondent serves and files a notice in the superior court electing to use an appendix under this rule within 10 days after the notice of appeal is filed and no waiver of the fee for a clerk's transcript is granted to the appellant.

(2) When a party files a notice electing to use an appendix under this rule, the superior court clerk must promptly send a copy of the register of actions, if any, to the attorney of record for each party and to any unrepresented party.

(3) The parties may prepare separate appendixes, but are encouraged to stipulate to a joint appendix.

(b) Contents of appendix

(1) A joint appendix or an appellant's appendix must contain:

(A) All items required by rule 8.122(b)(1), showing the dates required by rule 8.122(b)(2);

(B) Any item listed in rule 8.122(b)(3) that is necessary for proper consideration of the issues, including, for an appellant's appendix, any item that the appellant should reasonably assume the respondent will rely on;

(C) The notice of election; and

(D) For a joint appendix, the stipulation designating its contents. .....

(4) All exhibits admitted in evidence, refused, or lodged are deemed part of the record, whether or not the appendix contains copies of them. .....

(c) Document or exhibit held by other party

If a party preparing an appendix wants it to contain a copy of a document or an exhibit in the possession of another party:

(1) The party must first ask the party possessing the document or exhibit to provide a copy or lend it for copying. All parties should reasonably cooperate with such requests.

(2) If the attempt under (1) is unsuccessful, the party may serve and file in the reviewing court a notice identifying the document or specifying the exhibit's trial court designation and requesting the party possessing the document or exhibit to deliver it to the requesting party or, if the possessing party prefers, to the reviewing court. The possessing party must comply with the request within 10 days after the notice was served.....

(d) Form of appendix

(1) An appendix must comply with the requirements of rule 8.144(a)-(c) for a clerk's transcript.

(2) In addition to the information required on the cover of a brief by rule 8.204(b)(10), the cover of an appendix must prominently display the title "Joint Appendix" or "Appellant's Appendix" or "Respondent's Appendix" or "Appellant's Reply Appendix"

(3) An appendix must not be bound with a brief.....

(g) Inaccurate or noncomplying appendix

Filing an appendix constitutes a representation that the appendix consists of accurate copies of documents in the superior court file. The reviewing court may impose monetary or other sanctions for filing an appendix that contains inaccurate copies or otherwise violates this rule.....

Advisory Committee Comment

Subdivision (a)(2) is intended to assist appellate counsel in preparing an appendix by providing them with the list of pleadings and other filings found in the register of actions or "docket sheet" in those counties that maintain such registers. (See Gov. Code, § 69845.) The provision is derived from rule 10-1 of the United States Circuit Rules (9th Cir.).

Subdivision (b). Under subdivision (b)(1)(A), a joint appendix or an appellant's appendix must contain any register of actions that the clerk sent to the parties under subdivision (a)(2). This provision is intended to assist the reviewing court in determining the accuracy of the appendix. The provision is derived from rule 30-1.3(a)(ii) of the United States Circuit Rules (9th Cir.)....."

The full Appellant's Appendix volumes I-V (including Reporters transcript) and the Oral Argument CD will be lodged with the Clerk of the U.S. Supreme Court.

INTRODUCTION

Judges are required to follow the law. In this case, the Appeals Court violated the law: 1.) California Government Code section 68081 by raising new issues never proposed, and or briefed and 2.) Federal Rules of Appellate Procedure Circuit rule10 (a)-(e), by improperly eliminating the body of evidence that was before the lower court and properly designated by Appellant pursuant to Calif. Rule 8.124 as the "Appellant's Appendix". Rather than following these laws, the appeals court unlawfully eliminated evidence from the appellate record, and technically nullified the body of evidence (despite no objections

from either party to the action) that was before the lower court. Such behavior by the appeals court violates the law. Appellant raised these issues in her petition for review and, the California State Supreme court denied the petition while failing to address these violations of the law.

Appellant sincerely hopes the judgment will be reversed. As *Herb v. Pitcairn* (1945) 324 U.S. 117, 125-126, states: "Our only power over states judgments is to correct them to the extent that they incorrectly adjudge federal rights. And our power is to correct wrong judgments, not to revise opinions."

Appellant was denied a fair trial. Appellant is horrified that the irresponsible and improper conduct by judges was tolerated, overlooked, and covered up by the justices of the appellate courts in California. Respondent, Mike Roos, a powerful lobbyist in both California and Washington D.C. apparently has influence over our courts. (Appendix F) The law clearly states that a judge shall not allow political, or other relationships to influence the judge's judicial conduct or judgment. The violations of the laws and rules have affected the outcome of this case in a wrong judgment.

Appellant seeks relief from this court and is satisfied once the petition for certiorari is read, relief will be granted. (Petition For Cert. 1-57 11/25/2010)

Lorna Roos appeals the following post-judgment orders and requests reversal:

1. The denial of Lorna's set aside motion on divorce judgment, which included support

orders, (including $924,000+in fraudulent third party credits granted to Mike Roos (in a back-room deal that eliminated Petitioner, and provided no accounting records underlying what is "theft by false audit" orchestrated by Mike Roos),(AA45-165,AA174-1144)

2. The granting of Mike Roos' motion to quash Lorna's subpoenas for evidence regarding un-adjudicated assets, and (AA1170-1259)
3. The denial of Lorna's motion to "freeze assets." (AA260-1274)

STATEMENT OF CASE

The appeals court has errored in their opinion-Appendix A because it is based on inaccurate material facts and issues.ARB 19-Appendix L, AD-Appendix R (MTS 12/14/09-Appendix S) The appeals court has also errored due to its failure to investigate allegations and evidence that the court record is inaccurate, and failed to investigate allegations that important evidence appears to have been improperly handled and/or destroyed by the lower court. (AD 6/17/09, 7/7/09-Appendix-R, AA625) The appeals court has errored in taking aggressive actions to technically disqualify smoking gun evidence of fraud and non-disclosure of assets, rather than investigating evidence that was validly submitted to the court.(AA1305-1306-Appendix J)

The facts set forth in the appeals court opinion is inaccurate, and entirely omits two days of trial (March 9th and 10th of 2000). (Appendix A & E) The same opinion also omits trial briefs (trial testimony)

submitted by both parties regarding allegations and evidence of fraud and perjury. Appellant presented evidence that these trials briefs are completely missing from the court docket, and these briefs are required to establish accurate facts and issues.(AA625) Appellant is alleging that the conclusions in the opinion are completely undermined by the evidence that was filed with Petitioner's original OSC motion on 9/29/08 and additional evidence submitted to the court at hearing (including prior trial briefs that have now vanished from the record) before Judge Diaz on 10/28/08. (AA45-165, AA174-1144)

This mishandling of evidence (including the court record), and the miss-statements of facts and issues in the opinion needs to be investigated and properly resolved. Appellant hereby incorporates the statement of the case and facts from her AOB 1-59. (Appendix "E")

See FACTS under each of the five ARGUMENTS below.

REASONS FOR GRANTING THE PETITION

Appellant is filing petition for certiorari review on Appeals case B216438 and Superior Court case BD202859, Roos v. Roos. The basis for this request is because the appeals court has set forth an opinion that:

I. unlawfully eliminated evidence from the appellate record in direct violation of Federal Rules of Appellate Procedure Circuit Rule 10 (THE RECORD OF APPEAL) (AA45-165,AA174-1144)

II. inaccurately presents material facts and issues

III. has violated California Government Code section 68081 by introducing new issues, primarily regarding admissibility of evidence that the parties had neither proposed nor briefed.

IV. fails to address important issues and evidence contained in this appeal, (a blind eye completely ignores facts and evidence that contradict the opinion by simply omitting and pretending that the contradictory facts and evidence simply do not exist, when the evidence clearly exists on the appellate record).(AA1305-1306,AA45-165,AA174-1144)

V. incorporates case law that is irrelevant and immaterial to the issues raised on the appeal.

A grant of certiorari review and resolution of the above issues is necessary to correct errors in the opinion that has resulted in *false conclusions* being rendered in the opinion-Appendix A, that are based on false statements about the evidence, false statements regarding appellate record, and resulting in a miscarriage of justice and irreparable harm to Appellant. Appellant requests review of a state judgment, under the statutory basis of 28 United State Code section 1257(a), and pursuant to U.S. Supreme Court Rules of the Court, rule 14.1 (i).

ARGUMENTS

I. EVIDENCE HAS BEEN UNLAWFULLY ELIMINATED FROM THE APPELLATE RECORD IN DIRECT VIOLATION OF FEDERAL RULES OF APPELLATE PROCEDURE CIRCUIT RULE 10

THE FACTS:

A significant amount of evidence that was validly submitted to the lower court by Appellant has been unlawfully eliminated by the appeals court from the appellate record (evidence eliminated: AA45- 165and AA175-1144). The opinion-Appendix A, page 2 footnote 1 falsely states, *"there is nothing in the record indicating the documents were lodged with the superior court. In fact, the superior court case summary in the record does not include an entry for these documents."* This statement is materially inaccurate and is revealed to be inaccurate by both the court docket and a minute order. Item AA45-165 is clearly evidenced in the appellate record (Exhibit "G" court docket *AA 1308*). In addition, item AA175-1144 is clearly evidenced in the appellate record (Exhibit "H" minute order *AA174*). This minute order states: "*the court must read and consider the large number of documents submitted by petitioner."*

These false conclusions set forth in the opinion appear to be based on a false statement of the record, made by Respondent's attorney (Appendix K-RRB p 6), whereby these false statements of fact and false citations are now incorporated in the appeals court opinion. Appellant brought these material inaccuracies to the attention of the appeals court

on two separate occasions (see: Appendix S- motion to strike all of page 6 RRB filed 12-14-09- Appendix K, and Appendix L- ARB page 19 false citations). These significant inaccuracies contained within the opinion is extremely distressing to Appellant as only two possible conclusions can be drawn from the elimination of this evidence from the appellate record, either: a) Judicial Negligence in examining the facts and evidence on the appellate record and/or b) Judicial Misconduct in unlawfully eliminating this key evidence from the appellate record.

The evidence on the appellate record is critical to this case. (AA45-165, AA175-1144) In this regard, this entire opinion has certain smell to it. In the face of ruling against smoking gun evidence that was validly submitted by Appellant, it appears judicial liability and accountability can effectively be minimized, if the opinion simply states "smoking gun evidence" was either never submitted by Appellant, or it is now somehow technically inadmissible (despite this issue never being raised in the lower court, proposed and or briefed). In essence, if both the lower court judges and appellate judges can plausibly claim to *never have seen the evidence*, or they *should not evaluate the evidence* (because it is technically inadmissible), how can they ever subsequently be found guilty of judicial misconduct or abuse of discretion (as plausible deniability has now been established)? This entire matter of unlawfully eliminating evidence is quite disturbing.

This evidence clearly existed before the lower court and was properly designated on the appellate record. Court docket (*AA1308-Appendix G*) clearly states *Petitioner filed OSC motion 9/29/2008* (AA45-165 evidence). Additionally, Superior Court minute order (*AA174-Appendix H*) reveals *submitted documents were indeed received, and states, "the court must read and consider the large number of documents submitted by petitioner." This evidence was to be considered before Judge Diaz.* (AA175-1144 designated documents submitted at hearing)

Appellant properly included a Chronological Index (Appendix J-AA1305) in both designation of the record and Appellant's Appendix, whereby the above documents were specifically titled and listed with the date filed and submitted to the lower court.(AA1297-1306-Appendix J) Respondent, Respondent's attorneys, and Judge Diaz never objected to these documents when served with the notice of designation of the record and AOB-Appendix E with appellant's appendix, AA volumes I-V.

Appellant is shocked and dismayed that the opinion-Appendix A falsely rewrites the appellate record, when the Chronological index (AA1305-Appendix J) is very clear that the following documents were admissible before the lower court (1. *OSC Motion to set aside Judgment dated 6/04/04 filed by Petitioner 9/29/08 AA 45"-165,* and 2. "*Case Overview full and frank disclosure submitted to the court by Petitioner in support of Motion to set aside Judgment dated 6/04/04 and for attorney bills on 10-28-08 page AA*

175"-1144). Despite a very specific appellate record on this matter, the appeals opinion unlawfully eliminates the evidence that was validly filed and submitted by Petitioner in the lower court and designated on the appellate record. (AA45-165) (AA175-1144). The opinion sets forth false statements of material fact. (AA1297-1306-Appendix J) These false statements in the opinion appear to be based upon a fraudulent portrayal of the court record by Respondent's attorney. This false portrayal of the court record appears to be a deliberate act of perjury by Respondent's attorney to the appeals court (Appendix K- RRB 6) that is intended to nullify evidence that was validly before the lower court through false statements that fraudulently attempt to re-write the record. Page 6 of RRB, Respondent's attorney fraudulently claims documents that were actually submitted at hearing by Petitioner (AA175-1144) on 10/28/2008, were instead filed at a different time and date (fraudulent date given in RRB 9/29/08). This false statement of fact appears to be a deliberate act of perjury, and is revealed as such by the Chronological Index appellate record. (AA1305-Appendix J) The real appellate record reveals addition evidence AA175-1144 was in fact submitted 10/28/08 at hearing. Importantly, the real appellate record leaves intact both the 111 pages of evidence filed with the lower court original OSC Motion Filing (filed 9/29/08 by Petitioner declaration exhibit's 1-4 AA45-165) and the 970 pages of additional evidence (submitted by Petitioner 10-28-08 Case overview exhibit's 1-87, and 105 AA 175-1144). (Minute order-Appendix H)

This false statement of the record by Respondent's attorney (perjury) attempts to make 111 pages and 970 pages of documents and evidence vanish from the court record, by a deliberate misstatement of material facts. Page 6 RRB-Appendix K, Respondent's attorney states: "*it can be confirmed that Ms. ROOS' Case Overview, consisting of a 16 page single-spaced email served as her Declaration for the Court in the Motion to Set Aside, and including an Exhibit List, consisting of either 88 or 105 exhibits*" with false citations "*AA175 and AA191*". This statement is completely false and the Chronological index (AA 1305-Appendix J) reveals it to be false.

The appellate record reveals that the opinion of the appeals court has UNLAWFULLY eliminated evidence from the appellate record in a way that prevents accurate conclusions and findings in the opinion. The opinion- Appendix A, from the appeals court inaccurately presents material facts and issues that ultimately re-writes the record and eliminates 1081 pages of evidence from the appellate record. Facts and evidence supporting this allegation are presented in the paragraphs below.

Page 5 of the opinion under the section titled DISCUSSION, the author of the opinion concludes, "*However, Lorna did not file any admissible evidence to support an order to set aside the judgment based on these grounds.*" This statement is completely false. Even worse, as one digs into what lies behind

the word "admissible" in this false statement, a bedrock of other false statements are uncovered in the opinion where there is little question that they are deliberately fraudulent and likely criminal, because it is fundamentally based on deliberate elimination of evidence from the appellate record. Some of the most compelling grounds to set aside the judgment is the legal filing of over 120 pages of smoking-gun evidence of criminal behavior that was filed with the court on 9/29/08 by Petitioner (Designated Petitioners original OSC motion, declaration, exhibits attached 1-4 AA45-165), and documented by court docket case summary AA1308-Appendix G). Importantly, the author of the opinion from the appeals court has deliberately attempted to WIPE FROM THE RECORD the 111 pages of smoking-gun evidence/exhibit's 1-4 that was validly submitted with OSC filing on 9/29/08, and was attached to declaration. Any record that this evidence exists (or was validly submitted to the court by Petitioner AA45-165) is effectively WIPED FROM THE RECORD by the false statements on page 2, which actually occurs in footnote 1 of the opinion. (AA1305-Appendix J)

This occurred in a brilliantly devious fashion leaving the door open for plausible deniability - by only some of the culprits. Here is how it works. Page 2 of opinion makes the following statement *"Lorna filed a three and one-half page sworn declaration which included documents attached as exhibits1...."* Now, pay attention, the plot gets interesting, and the criminal behavior occurs right here. The documents

subsequently referenced in the footnote of the opinion ARE ENTIRELY DIFFERENT DOCUMENTS than the 111 pages Exhibits 1-4 that Petitioner filed with the original OSC motion attached to declaration (AA50-165). Any reliance on this false statement in the footnote (which subversively swaps out one set of legal documents consisting of 111 pages, and then fraudulently inserts a different set of evidence consisting of 970 pages) means the 111 pages of originally submitted evidence disappears from the record. It is brilliantly devious, yet criminal. One tiny false statement in the footnote of opinion magically makes 111 pages of evidence disappear, and then enables a claim of inadmissibility due to non conformity to occur on the remaining 970 pages of evidence that was swapped in. This false statement subsequently empowers the author (of the opinion) to then fraudulently attempt to nullify the remaining 970 pages of evidence by falsely stating this evidence was submitted with a *declaration* and required a signature of Petitioner (yet this same evidence, when submitted as evidence at hearing on 10-28-08, as it was, does NOT require a signature and or require the evidence conform to a court filing standard). Because this was submitted as evidence at hearing, no signature was required, yet by fraudulently swapping it in with the original OSC declaration, the author of the opinion can now attempt to nullify it with a non-conformity technicality.

The way the evidence has been deliberately manipulated by the author of the opinion is *deviously*

brilliant, yet completely fraudulent and totally criminal. Yet, true facts are:

1. this evidence was submitted in court at hearing on 10/28/08, and; 2. this evidence was accepted by the court, and; 3. no objections were raised. No objections to the validly submitted evidence ever occurred in the lower court, nor was proposed or briefed. In fact, minute order from 10/28/08 clearly states Petitioner submitted this evidence with NO objections from the court (AA174-Appendix H). In addition, Respondent, Respondents attorney, and Judge Diaz never objected to the submission of this evidence when there were two additional hearings held on this matter 1-28-09 and 4-27-09. (Order-After Hearing AA1295-1296-Appendix B) .

The author of the opinion-Appendix A is engaging in one additional unlawful act that is repeated on many occasions throughout the opinion. The author is attempting to nullify smoking gun evidence of fraud and concealment of assets by Respondent, through raising NEW ISSUES that were not proposed or briefed in direct violation of Government Code section 68081. On nearly each occasion where this occurs throughout the opinion, the new issues raised are legal technicalities that Respondent and his attorneys failed to raise themselves. It is now highly improper and an abuse of discretion for new issues of in-admissibility of evidence to be raised by judges who are expected to remain impartial. The evidence reveals truth (in this case criminal behavior of Mike Roos... ...and perhaps Tom Girardi), yet judges are

introducing technical violations in an attempt to nullify evidence that was designated on appellate record. This behavior is unlawful. (AA1305-1306-Appendix J, AA 45-165, AA175-1144)

False statements about the record in opinion unlawfully enables smoking-gun evidence Exhibits 1-4, (111 pages), to completely vanish from the opinion and appellate record, and vanish from sight. (AA 50-165). Evidence in the 111-page document includes:

- (AA78-147) – New evidence from probate records reveals the existence, ownership, and concealment of The Roos Family Living Trust by Respondent, and (AA135) the fact that Mike Roos was co-trustee during the marriage, and at the time, he filed his Final Financial Statement with the lower court. (AA 156-163)

- (AA165) – New evidence from probate court records reveals the father of Respondent (Walter Roos), died with no will or probate (less than $10,000 estate), and no Trust – This evidence reveals that Respondent made fraudulent representations to the court. It reveals that neither Respondent's mother nor Respondent's father possessed the financial means to make an investment into Commerce Casino. This evidence also supports the allegations by Petitioner of fraudulent conveyances by Respondent, and his role in creating this fraudulent trust AFTER the death of his father – another criminal act.(AA45-1144)

- (AA76) New evidence reveals that Respondent sold the family home for double the price he claimed it was worth with the court. The $1,299,000 price was nearly identical to what Petitioner had claimed it was worth (trial brief where Petitioner contested the value of the family home is now missing from the court docket)(AA636) (no statement of decision has ever been filed by Judge Black on this issue – in an abuse of discretion) (AA734)

False statements about the record in opinion unlawfully enable 970 pages of smoking-gun evidence to completely vanish from sight within the opinion and appellate record. (Case overview exhibit's 1-87, and 105 AA 175-1144). Evidence in the 970-page document includes:

- (AA 261-300) – New evidence that reveals the existence, ownership, and concealment of The Roos Family Living Trust by Respondent from Respondent's mother's probate court records, and (AA447) the fact that Respondent was co-trustee during the marriage, and at the time he filed his Final Financial Statement with the lower court.(AA156-163) Also, no marital transfer occurred from Respondent's father to Respondent's mother per estate tax return.(AA438)

- (AA 334-341) New evidence reveals the mysterious $531,561 in assets WERE NOT owned by the mother of Mike Roos as he fraudulently represented. These assets were transferred from a

mysterious source into the undisclosed Roos Family Living Trust. (AA45-165)

- (AA315) - New evidence from Respondent's mothers probate file reveals the existence and concealment of $1,500,000 assets owned by Mike Roos in Joint tenancy with his mother, yet not disclosed in his Final Financial Statement.(AA156-163)

- (AA206) – New evidence from Commerce Casino K-1 reveals direct ownership by Respondent for year 2004, which was fraudulently conveyed back to himself via the sham Roos Family Trust that Mike had set up for this purpose.(AA45-165)

- (AA517) - New evidence reveals that Respondent sold the family home for double the price he claimed it was worth with the court. This price was nearly identical to what Petitioner had claimed it was worth (AA 636)

- (AA 434 AA454) – New evidence from probate court records reveals the father of Respondent (Walter Roos), died with no will or probate (less than $10,000 estate), no Trust, *and no marital transfer of ANY (AA436-452) Trust assets to his spouse* This evidence reveals fraudulent representations to the court by Mike Roos. It also reveals neither the mother nor father of Mike Roos possessed financial means to make investment into Commerce Casino.(AA45-1144)

- New evidence reveals Tampering with Court Record by the removal of trial briefs from the court record. These missing briefs were validly submitted to the court by Petitioner (AA626-873) and Respondent (AA 875-979) before Judge Black and now Judge Diaz – yet court docket in lower court reveals no evidence of these legal records.(AA625)

- New evidence revealed an undisclosed loan for $128,050 to Don Levin and then to Charles Cunningham, later used by Mike Roos to laundered away undisclosed loan debt on Sacramento property (AA 195-202)

- New evidence reveals prior representations by Mike Roos that 1031 exchange starker occurred was in fact a fraudulent representation, whereby Respondent fraudulently conveyed community property to Don Levin and Respondent's mother without receiving anything apparent in return. (AA985-1002)

- New probate evidence reveals Respondent owned real estate (Iroquois property) in joint tenancy with his mother yet this asset was not listed on his Final Financial Statement that was filed with the court (AA 302-306, AA156-163)

- (AA43) – This new evidence reveals false disclosure and concealment of Stone and Youngberg LLC by Mike Roos at time of the judgment.

- (AA381-382,AA874-973) This is declaration of Respondent's trial testimony. Mike Roos filed this brief with the court 8-16-2001 and is now missing from court docket. Petitioner submitted this brief (a second time, when Petitioner found it missing from court docket) in Case overview that was submitted at hearing before Judge Diaz 10-28-08 as exhibit "51".

- (AA627-873) Petitioner filed this declaration of Lorna Roos trial testimony with the court on 6-15-2002. This brief is now missing from court docket.(AA625) Petitioner had filed and served this brief actually on 7-15th, 2002 with the court. However, the court clerk in Judge Black's courtroom falsely stamped brief as 6-15-2002) Petitioner was forced to re-file this same brief again on 6-20-2003 with the court as Judge Black claimed it was missing from court file.(AA736-738) Petitioner found it missing from court docket again. Then, Petitioner included this brief in Case overview submitted 10-28-08 to the court before Judge Diaz exhibit "50".(AA175-1144)

I. THE OPINION HAS INACCURATELY PRESENTED MATERIAL FACTS AND ISSUES

THE FACTS:

The section in the opinion titled: "FACTUAL AND PROCEDURAL BACKGROUND" Page 2 is materially inaccurate. It inaccurately states, *"Lorna filed a three and one-half page sworn declaration, which included documents attached as exhibit's*[1]" Footnote 1 falsely cites exhibits that were NOT part of her 31/2 page sworn declaration (filed on 9/29/08), but instead were submitted at hearing on 10/28/08. This false statement has a very material impact on this case as it enables the real exhibits/evidence that were attached to the 31/2 page declaration to vanish from sight, and subsequently enable false conclusions to be drawn.

The inaccurate statement above fraudulently re-writes the record (with exhibits that were submitted at a later hearing on 10/28/08) and effectively eliminates the actual evidence that was filed in Petitioner's original OSC motion exhibits 1-4. (AA45-165)

The Chronological Index (Appendix J) of the Appellate Record is very clear on what was actually filed and submitted with the 3 ½ page sworn declaration. Petitioner's original OSC motion was supported by a points &

authorities, and declaration with evidence attached exhibits 1, 2 (declaration Lorna Roos, exhibits A-D) 3, and 4 and was validly signed under penalty of perjury. (AA45-165) Chronological index (AA1305-Appendix J) confirms that Petitioner filed original OSC motion with exhibit's 1-4 on 9-29-08 AA 45 to165. Court docket verifies Petitioner filed OSC motion on 9-29-08. (AA1308- Appendix G)

The opinion falsely states in footnote 1 that a 16 page printout from Petitioners own email with exhibits 1-87 and 105(AA175-1144) served as Appellant's original declaration exhibits. This statement is completely false. Exhibit's 1-87, and 105 were ACTUALLY submitted to the court by Petitioner at hearing held on 10-28-08. Chronological index-Appendix J confirms this to be true. (Case Overview includes 16 pages exhibit's 1-87, and 105 AA175-144) The above false statement in footnote 1 is then used to conclude that these documents *"are not conformed and nothing in the record indicating the documents were lodged with the superior court"* – which is also an inaccurate and false statement. Evidence reveals otherwise.

Evidence in appellate record confirms these documents (AA175-1144) were in fact validly submitted to the court at hearing held on 10-28-08. Minute order from the lower court verifies receipt of this evidence in its statement *"The court must read and consider the large number of documents submitted by Petitioner"* on 10/28/08 (AA174-Appendix H).

Page 2 in footnote 1, the author of the opinion makes another false statement as the opinion states "*the appellant's appendix includes a 16-page print-out of an unsigned email from Lorna to an unknown recipient.*" This is a false statement. It is NOT an email from Lorna to anyone. The source of the printout is email address of Lorna and she emailed this CASE OVERVIEW to herself, and then printed it out.

The document is clearly titled as follows:

"From: Lorna Stevenson Roos

BD202859 Roos v.Roos

CASE OVERVIEW"

As the title of this document clearly states, this is a 16 page CASE OVERVIEW (with exhibits 1-87, 105). This Case overview with exhibit's 1-87, and 105 was submitted by Petitioner to the lower court at hearing held on 10/28/08. Minute order from 10-28-08 provided as AA 174 (Appendix H) confirms the court received and must consider the documents in Case overview. Importantly, the court never objected to this evidence, or raised the issue that this evidence was inadmissible in any way. The court willingly accepted the evidence on the record at hearing on 10-28-08 before Judge Diaz. (AA174-1144)

Despite this evidence, the author of the opinion falsely states, *"the documents are not conformed and there is nothing in the record indicating the documents were lodged with the superior court. In*

fact, the superior court case summary in the record does not include an entry for these documents. Accordingly, we cannot consider these documents because they were not filed or lodged in the superior court." Not only is this ENTIRE statement false, it introduces a new issue (inadmissibility: not lodged and conformed) that was NEVER raised in the lower court, and or briefed on appeal. The magnitude of this error that is used as the basis to dismiss critical evidence (that implicates Mike Roos) is quite disturbing. If the appeals court simply examined the minute order from the Superior court AA174 (Appendix H) in the appellate record the conclusions presented in their opinion would not be possible. Why is the appellate court miss-portraying facts about the court record despite clear evidence on the appellate record that this portrayal in the opinion is false? (AA1305-1306-Appendix J,AA45-165,AA175-1144) Does the court have something to hide? Will anyone be held accountable?

In regards to the motions to augment, (page 2, footnote 1, lines 10-11 of the opinion) the opinion inaccurately states, "*the documents she sought to include in the record were not before the superior court at the time it issued the order.*"This statement is completely false, and it enables the opinion to then deny the motions to augment entirely based on this false statement of fact. Evidence exists that each issue was before the lower court. The evidence that Petitioner sought to include was smoking-gun evid-

ence primarily related to three issues: (AA45-165, AA175-1144, Appellant Docket- Appendix R and MTA -9/18/09, 3/18/10, 3/26/10 -Appendices M-O)

1. The contents of subpoenaed information involving $531,561of assets whereby this subpoena was improperly sealed by Judge Black in the lower court (in an abuse of discretion), and NEW EVIDENCE (existence of the Roos Family Living Trust) that was presented in Case Overview (AA 177, AA 333-367). This evidence was clearly before the lower court, and was designated on appellate record AA 1305-Appendix J) Chronological index Case overview submitted to the court 10-28-08 AA175-1144.(Appellate Docket 9/18/09-Appendix R)

2. The Charles Schwab accounts containing approx $1.5 million was subpoenaed information (by Petitioner) that was satisfied and *was sent directly to the lower court.* Importantly, this evidence was in the hands of the lower court of Judge Black, yet this information was improperly withheld from Petitioner (in an abuse of discretion) by the Judge Black.(MTA, 3/18/10,3/26/10 – Appendices M-O, Appellate Docket-Apendix R, AOB 1-58-Appendix E,ARB1-31-Appendix L)

3. Appellant has presented smoking-gun evidence that audits from The Department of Children and Family Services are not accurate, and has resulted in approximately $924,000+ of false credits in "theft by false audit" unlawfully allocated to Mike Roos. This NEW EVIDENCE was previously unlawfully withheld from Petitioner by DCFS, and the lower court also improperly credited Respondent (in a back-room deal that excluded Petitioner) whereby Judge Black wiped clean $924,000 in

support arrearages owed (in an abuse of discretion – no evidence or logic to justify this action) while failing to provide any: itemized accounting; logic, or; valid basis, for wiping the slate clean. The court has NEVER provided Petitioner with an actual order of the court that documents this back-room deal (despite numerous requests by Petitioner). Denying Petitioner with the actual order is a clear abuse of discretion. Petitioner did present evidence in the case overview regarding this issue "theft by audit" and fraudulent credits given to Respondent on new audits. See AA 181 exhibit 46. (Appellate Docket 3/18/10,3/26/10- Appendix R & M-O, AOB 1-58-Appendix E,ARB1-31-Appendix L)

Top of page 3, the opinion states, *"the case was reassigned several times and hearing on the matter was continued to January28, 2009"* This is a false and misleading statement. This inaccurate statement appears deliberately intended to completely eliminate the hearing that took place on 10-28-08 before Judge Diaz, through re-writing the record. Such a hearing did take place, in which both Respondent and Respondent's attorneys failed to appear. In fact, a response declaration to Petitioner's original OSC motion was filed by Respondent with the court on 10-15-08 (the opinion fails to address important evidence that exists in this declaration AA page 1148). This response accurately confirmed THE EXISITENCE of the UNDIS-CLOSED Roos Family Living Trusts (un-adjudicated asset where Mike Roos was co-trustee of financial assets he had fraudulently diverted to these trusts, while failing to disclose to either Petitioner and the

court), and also confirmed the sale of the family home for $1,299,000 (only 90 days later after entry of judgment, at double the value that Respondent had fraudulently represented to the court that it was worth). Despite this smoking-gun evidence of non-disclosure, and false disclosure by Mike Roos on his final financial statement, Judge Diaz improperly continued the matter (in an abuse of discretion) until 1/28/2009. Under Family code 2122-2129 and 1101 when evidence was validly submitted to the court by Petitioner that Respondent had clearly VIOLATED MANDATORY DISCLOSURE REQUIREMENTS, the court is then REQUIRED BY LAW to give MANDATORY RELIEF: set aside the judgment; award attorney fees; employ a forensic accountant; implement a freezing order on the un-adjudicated assets, and grant discovery to Petitioner. In a violation of the law (and an abuse of discretion), none of this occurred. The evidence submitted by Petitioner clearly reveals that Respondent had breached his fiduciary duty in violation of Family Codes 721,2100, and 1101 and committed fraud and perjury to the court within the meaning of civil code 3294. (AA45-165,AA175-1144,AA1305-Appendix J)
Page 4 of the opinion under the section titled CONTENTIONS, it inaccurately and misleadingly states *"Lorna contends inter alia, that Michael failed to disclose (1) assets in the Roos Family Living Trust, including shares in the Commerce Casino Club ..."* This is a completely false statement.

In fact, Lorna contends and has presented evidence that Respondent failed to disclose the

existence of THE ROOS FAMILY LIVING TRUST on his final financial statement and failed to disclose that he was co-trustee of the Trust. (AA316-324) The concealment of these two facts is what Petitioner is charging. The statement above from the opinion is inaccurate, misleading, and a miss-portrayal of the facts. This miss-portrayal subsequently enables false conclusions to be drawn (because they are supported within the opinion by inaccurate statements of facts and evidence). Respondent had previously fraudulently represented to the court that his mother owned Commerce Casino, whereby evidence now reveals that it was actually owned by the undisclosed The Roos Family Living Trust that Respondent was co-trustee of at the time his final financial statement was submitted to the court The Roos Family Living Trust was NOT disclosed on his Final Financial Statement as required by law (nor the fact that Respondent was co-trustee of the Trust). This false statement of facts by the author of the opinion then enables the author to support his subsequent false conclusions with the inaccurately stated facts and evidence. (AA45-165)

Page 5 of the opinion under the section titled DISCUSSIONS it states *"Lorna did not file any admissible evidence to support the order based on these grounds"* This is a false statement that is materially inaccurate. Petitioner filed her OSC motion with declaration and with exhibits/evidence attached, that was NOT objected to by the lower court.(AA45-165) Petitioner also submitted

additional evidence at hearing held on 10/28/08 in which the court did not object to the submission of this evidence either (AA174-1144, AA1294-1306). This evidence includes:

- The final financial statement of Respondent which was filed with the court on 3/2/2000(AA316-324), trust documents and tax documents that reveal the *existence* of The Roos Family Living Trust on 3/2/2000(AA412-454),
- trust documents that reveal Respondent was *co-trustee* of the Trust(AA(AA412-454),
- real estate broker documents reveals actual sale price of the Roos Family Home(AA516-517),
- a K-1 reveals Michael was an owner of Commerce Casino in year 2004 (indicating transfer back to himself out of sham trust that he had fraudulently created in the name of his mother)(AA203-225),
- and other evidence.

The statement quoted above from the opinion is a false statement of the facts that enables smoking gun evidence of concealment of assets and non-disclosure by Respondent to be dismissed. False statements of fact in the opinion then lead to subsequent false conclusions in the opinion. The statement in the opinion that *"Lorna did not file any admissible evidence"* is not only inaccurate, it raises a NEW ISSUE (not admissible) in violation of Government Code section 68081. No such issue was raised or addressed in the lower court, proposed and or briefed

on this appeal. The lower court cited only "lack of proof" – and this conclusion by the lower court is what is now being challenged by Appellant as an abuse of discretion (Smoking-gun evidence exists, and this evidence was validly submitted to the court, and accepted by the court). (RT 1277-1289, AA1295-1296, AOB26-Appendix E) It is unlawful for the appeals court to improperly introduce this new issue in the Appeals opinion.

Page 6 under *2. Michael's Motion to Quash Subpoenas* the opinion states, *"In her reply brief,... .....Lorna does not however provide any reasoned argument, citation to authority, or citation to the record to support her challenge."* This statement selectively fails to address Appellants response declaration filed with the court on 1/28/09 to Michael's Motion to Quash (importantly: the opinion conveniently omits this response declaration, which was filed by Petitioner in response to Michaels Motion to Quash. (AA1253-1259) The opinion never addresses the issues raised by Petitioner in her response declaration filed and also raised in Appellant's opening brief. When any party has violated their mandatory disclosure requirements (as Respondent has in submitting an inaccurate final financial statement and misrepresentations of key material facts) it is unlawful for any court to prohibit discovery to the fraudulent key material facts given and undisclosed un-adjudicated assets, per family law. The law is quite clear on the mandatory relief to be awarded under Family Code Section 2120-2129 and 1101(h) within the meaning of Civil Code 3294,

which was cited in both Appellant's opening brief (AOB 6,7,26,45,46,47,48,49,56-Appendix E) and Appellant's reply brief (ARB 4,5,13,27,29-Appendix L). If this order is not reversed, a violation of law stands, resulting in irreparable harm and a miscarriage of justice.

Page 6 under 3. In regards to Lorna's motion to freeze assets, *Lorna's motion to freeze assets* the opinion states "*Lorna does not provide any reasoned argument or citation to authority to support her challenge.*" The reasoned argument that Petitioner provided was included with evidence that revealed Respondent had violated his mandatory disclosure requirements, breached his fiduciary duty, made fraudulent conveyances, committed fraud and perjury. Respondent failed to disclose community assets. Mandatory relief provisions require that un-adjudicated assets be frozen until these assets are adjudicated by the court under Family Code 2120-2129 and 1101 within the meaning of Civil Code 3294, as cited in AOB and ARB. In addition, the opinion fails to mention that Respondent filed no objections when Respondent's attorney was served with Petitioner's motion to freeze assets yet Judge Diaz denied this mandatory freezing order, in violation of the law. If this freezing order motion is not reversed, a violation of law stands, resulting in a miscarriage of justice. (AOB 57-Appendix E)

Page 7 the opinion states, *"The declaration did not constitute admissible evidence because it was not signed under penalty of perjury"* This is a false claim. The first page of the document referenced in opinion

was clearly signed by Petitioner (see AA 1260), and also clearly states on front page "I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct." Respondent, Respondent's attorneys, nor the lower court ever objected to this filing being signed on the front page. This new objection of in-admissibility not valid because it is supported by falsely stated facts in the opinion. This issue raised by the author of the opinion was never raised by Respondent, and or Respondent's attorney in the lower court, and was not proposed and or briefed in direct violation of Government Code 68081.

III. VIOLATED GOVERNMENT CODE SECTION 68081 BY INTRODUCING NEW ISSUES

THE FACTS:

Government Code Section 68081 requires a rehearing when an appellate court "renders a decision in a proceeding based upon an issue which was not proposed or briefed by any party to the proceeding." (*People v. Alice* (2007) 41 Cal. 4th 688, 679.) On ten separate occasions the appellate opinion-Appendix A (which is NOT a party to the proceeding) raised an issue that was not proposed or briefed by either party (page 2 footnote 1 line 1,5,7,8,9,11, page 3 line 24,page 5 line 18,page 6 line 11,12,14,19,20,21,26,27). Appellate filed Petition for rehearing on the basis that the appeals opinion directly violated Government Code Section 68081 by introducing new issues that were never before the lower court and never proposed, and or briefed. (see:

Petition for rehearing). In a violation of Government Code Section 68081 the appeals court denied Appellant's petition for rehearing and judicial notice. Page 2 footnote 1 of the opinion, the author of the opinion states, *"the documents are not conformed, and there is nothing in the record indicating the documents were lodged with the superior court. In fact, the superior court case summary in the record does not include an entry for these documents. Accordingly, we cannot consider these documents because they were not filed or lodged in the superior court."* This statement is false, and is evidenced as materially false as the court docket AA1308-Appendix G specifically states "*OSC-other filed by Petitioner on 9-29-08"* and this filing is designated on the Chronological Index as pages AA45-165,AA1305. The case overview additional evidence was submitted on 10-28-08 and can be verified by the minute order AA174-Appendix H, as it states: "*the court must read and consider the large number of documents submitted by petitioner."* No objections occurred. Additionally, the statement above from the appellate opinion introduces a new issue of in-admissibility of evidence that was NEVER raised in the lower court, proposed, and or briefed in direct violation of Government code section 68081. The magnitude of this error in technically dismissing smoking gun evidence of fraud by Respondent (in concealment of assets, breach of fiduciary duty, false misrepresentation of material facts, and fraudulent

conveyances) is troubling. If the appeals court had simply reviewed the appellate record - the conclusions reached in the opinion would not be possible. A main reason that the appellate record exists, is to prevent a false re-writing of the record. (AA1305-1306-Appendix J)

Additionally, Respondent and Respondent's attorneys nor the lower court NEVER raised the issue or objection that they were not properly served, and or did not receive these documents referenced in the statement (Case over view 16 pages with exhibit's 1-87, and 105) above from the opinion. (AA175-1144) In fact, Respondent's attorney confirms receipt of the case overview (16 pages with exhibit's attached as 1-87 and 105) page 6 of RRB-Appendix K. Furthermore, both Judge Diaz and Respondent's attorney signed an ORDER AFTER HEARING (Appendix B) that represented *"after reviewing the pleadings filed by the parties as well as other documents in the file..."* (filed with the court on 6-11-09). (Copy AA1295-1296).

This evidence amply reveals that Respondents attorney Jordan Metz knew the true facts yet deliberately committed perjury to the court (in violation of Calif. Penal Code 118) by falsely stating material facts within RRB-Appendix K. This perjury is now being amplified in the appeals opinion with the voice of the court, and used as the basis to unlawfully dismiss 1081 pages of evidence. Appellant requests that the Supreme Court sanction Jordan Metz and Kenneth Nahigian for knowingly

and maliciously making false statements to the court in the RRB-Appendix K, and refer this matter to the State Bar for disciplinary actions (ARB 1-31-Appendix L).

In a court of law, there is a proper time and place for objections to occur. The same is true for legal issues. New issues and objections are being raised for the first time in the appeals opinion and were NEVER made at the time and place required by law. Respondent and the lower court made no objections of in-admissibility due to non-conformity, or that documents or evidence was not properly served. Judge Diaz accepted *this evidence* willingly at hearing on 10-28-08, (AA174-Appendix H) and there were several hearings on the matter. The objections and issues being raised in the appeals opinion about admissibility of evidence were never raised in the lower court, proposed, and or briefed on this appeal. Petitioner properly served Respondent, Respondent's attorney, and the lower court with the designation of the record and still no objections were raised. Additionally, many issues and objections to admissibility of evidence that are now occurring in the opinion from the appeals court were NEVER raised in RRB-Appendix K. The time for objecting to the designation of the record has long past. It is HIGHLY IMPROPER for the author of the opinion from the appeals court to now raise new issues and new objections on behalf of Mike Roos. *This behavior by the appeals court is improper, reveals bias, is an abuse of discretion, and smacks of judicial misconduct.*

IV. FAILS TO ADDRESS CRITICALLY IMPORTANT ISSUES AND EVIDENCE

THE FACTS:

"A rehearing may be granted on the ground that the court's opinion . . . failed to address any material issue." (Eisenberg, Horvitz, and Wiener, Civil Appeal and Writs ¶ 12:16 (The Rutter Group 2007), citing (*In re Jessup's Estate* (1889) 81 Cal. 408, 471.)

AOB1-58-Appendix E, ARB 1-31-Appendix L, AA45-165, AA175-1144,AAI-V-Appellants Appendices

- No trial occurred before Judge Diaz
- No trial occurred before Judge Black either, as the briefs (trial testimony) are missing from court docket(AA625)
- No statement of decisions filed by Judge Black when requested to do so by Petitioner in brief that is missing from court docket violation of Civil Code of Procedure 632 and Family Code 3654.(AA734) The trial Court had a mandatory duty to provide this statement as it was properly requested by Petitioner. Failure of Judge Black to issue statement Judgment reversible per Civil Code 632. (*Miramar Hotel Corp v. Frank B Hall & Co* (1985) 163 Cal. App. 3d1126,1129)

  No statement by trial Court results in a remand ordering the Court to issue such a statement. (*In re marriage of S.* (1985) 171 Cal. App. 3d 738,751.)
- No final financial statement given to Petitioner 45 days prior to first day of trial 3-9-2000 in violation of Family Code 2105 (a) (b).

- No statement of decisions on fraudulent support orders (AA734)
- No discovery given to Petitioner when it was mandatory and warranted
- $924,000+ in arrearages of Mike Roos wiped clean by Judge Black retroactively using third party checks in a back room deal without any motion being filed and or order entered in direct violation of Family Code 17400 (a) (c), Family Code 3651(c), and Family Code 4009. (AOB 2,3,50,51,52-Appendix E) Judge Webster at the D.A. had previously refused to grant these credits because he knew it was illegal.
- Fraudulent credits given to Mike Roos at DCFS "theft by false Audit."
- No money and financial resources given to Petitioner throughout the entire divorce and post divorce proceedings for an attorney and this created for unfair orders and judgment as Respondent was well represented by attorneys though out divorce and post judgment proceedings
- The failure of both Judge Black and Judge Diaz to hear Petitioner's motions filed and paid for with the lower court
- Fraudulent judgment entered 6-4-2004 (AA523-530) to be set aside and support orders Family Code Section 3690 & 3691.
- Despite Mike Roos unlawfully removing the name of Lorna Roos from all of the financial assets Judge Black did nothing.

- Despite the request by Lorna Roos for a ruling that would give her the financial assets to hire an attorney Judge Black and Judge Diaz did nothing
- Despite the request to join, Respondent's mother and Leslie Reilly Judge Black did nothing when both parties were FINANCIALLY tried to community assets.
- Despite the fact that Petitioner filed OSC motion with evidence 111 pages AA 45-165 and submitted additional evidence case overview 970 pages AA 175-1144 in the lower court, the appellate court has now failed to consider and or address any of this evidence in the opinion.

V. INCORPORATES CASE LAW THAT IS IRRELEVANT

THE FACTS:

The appellate opinion introduces 5 cases.

As one examines these cases, two things become apparent: 1. no specificity exists in narrowing the case quoted to specific issues, and 2. the common theme in cases is nullifying evidence through introducing technical violations that make evidence or arguments inadmissible. This behavior in the opinion is biased and improper because it is siding with Respondent. It unlawfully cites the entire case in a way that incorporates new issues and objections (not raised by Mike Roos), nor proposed or briefed.

These cases introduce issues that could harm

Appellant at the Supreme Court level. The author of the opinion has found a back-handed way of inappropriately acting as the attorney of Respondent, by now introducing new issues and objections that Mike Roos failed to address in the lower court, in his reply brief, and or oral arguments. Such new issues in the cited cases include: Statute of limitations claim; no discovery and non-disclosure harm- less error; mistake omitted asset under Family Code 2556; sanctions and attorney fees for meritless claim; and due process disabled waived.(Opin.1-7-Appendix A)

SUMMARY

The appellate opinion:

- has unlawfully eliminated evidence from the appellate record in direct violation of Federal Rules of Appellate Procedure Circuit Rule 10
- inaccurately presented material facts and issues
- has violated Government Code section 68081 by introducing new issues,
- fails to address important issues and evidence contained in the appeal

"[p]rocedural due process rules are meant to protect persons not from the deprivation, but from the mistaken or unjustified deprivation of life, liberty, or property." Thus, the required elements of due process are those that "minimize substantively unfair or mistaken deprivations" by enabling persons to contest the basis upon which a State proposes to

deprive them of protected interests. The core of these requirements is notice and a hearing before an impartial tribunal. Due process may also require an opportunity for confrontation and cross-examination, and for discovery; that a decision be made based on the record, and that a party be allowed to be represented by counsel.
Ballard v. Hunter, 204 U.S. 241, 255 (1907); *Palmer v. McMahon*, 133 U.S. 660, 668 (1890).

In regards to NEW ISSUES raised in opinion, the entire position adopted by the author of the legal opinion is quite interesting. Can it really be true, that when smoking-gun evidence of criminal behavior has been validly submitted to the court by the victim of the crime (Appellant).... ....and the criminal (Mike Roos) has overlooked a variety of legal technicalities that might be employed to nullify the smoking-gun evidence of fraud, embezzlement, and concealment of assets... ...that Judges of the appeals court will unilaterally come to the rescue and volunteer to use their legal knowledge and legal services to raise these new technical objections on behalf of the criminal... ....in the hope of that the criminal can run free and continue to hone his craft on other lucky victims in society. Whooaa.....? ...yet, does the objective evidence point to any other possible conclusion? The dots all seem to align perfectly in this way. (Opin. 1-7-Appendix A)

CONCLUSION

THE FACTS, THE EVIDENCE, AND THE LAW WARRANT THE FOLLOWING and Petitioner respectfully requests the following of the court.
(AOB 1-58-Appendix E, ARB 1-31-Appendix L, AA I-V-Appellants Appendices volumes I-V)

1. Grant Petitioner's set aside motion on divorce judgment, including support orders, with an immediate order to reverse the unlawful $924,000+ in third party credits previously granted to Respondent.
2. Deny motions to quash (by Mike Roos) on evidence regarding un-adjudicated assets that was subpoenaed by Petitioner.
3. Grant motion to Freeze Assets filed by Petitioner,
4. Grant Petitioner full discovery.
5. Grant Petitioner money for attorney and forensic accountant.
6. Award Petitioner 100% of the undisclosed value of the family home $649,000 (AA 516-517),
7. Order the immediate unsealing of the subpoenaed evidence from Imperial Bank showing the maker and offset of the $531,561. (AA384-390,AA333-335)
8. Respondent should be ordered to return all of Appellant's & Appellant's twin-

sister's personal belongings.(AA175-191)

Award Petitioner and her twin-sister the following embezzled, undisclosed, and concealed assets (their separate property paid for these investments in the Roos Family Trust) pursuant to Family Code 2122-2129 within the meaning of Civil Code 3294: 1.) Roos Family Living Trust (AA 260-300), 2.) Exempted Trust EIN # 33-6088274 (AA 260-300), 3.) Commerce Casino at least 20 shares: 10 shares Melissa Walker's name, 10 shares Respondent's name, and the ill-gotten gains from this investment (interests were transferred via Roos Trust (AA 203-254). Award Petitioner the following assets 1.) Joint tenancy assets with Respondent's mother total $1,500,000 (AA 314-315), 2.) Stone & Youngberg L.L.C. (AA 43), 3.) Mike Roos & Company(AA 17), 4.) Iroquois property joint tenancy (AA 301-306), 5.) Prudential account (AA 307-313), 6.) life insurance policy (AA 45-165, AA 175-1144).

Award Petitioner assets that were fraudulently conveyed: 1.) 64,000 separate property (AA55-61), 2.) $100,000 falsely awarded to Mike Roos separate property gift from mother (AA 362-367), 3.) Reverse $100,000 given to Respondent's parents, (AA175-191) 4.)

> Reverse money fraudulently given to John Burton, Arnold Forde, Don Levin, John Karns, and Respondent's mother. (AA175-191) Appellant will need a trial.....

In closing, this case needs to be turned over for criminal prosecution as the case fundamentality involves criminal behavior committed by Michael Roos, my former husband, who has fraudulently, stole and embezzled community assets, fraudulently conveyed separate property during our marriage and at the time of dissolution of the marriage. Michael Roos perpetrated these unlawful acts through a number of techniques and nefarious behavior, which include:

- Sham trusts, (Why is this a sham trust? Because the sole purpose of the trust is to embezzle assets out of marriage in a way that conceals ownership and control until a time when it is more convenient to assert direct ownership and control.)
- Fraudulent real estate transactions (the fraudulent 1031 starker exchange agreement and undisclosed $128,050 loan on Sacramento), and
- Fraudulent misrepresentations of material facts and fraudulent valuations (parents were broke, dad died no will and or probate, false value on home, no value placed on Mike Roos and Company (Stone and Youngberg) false portrayal of rich mother affected many assets,)

- Fraudulent characterization of separate property and community assets(prevented discovery)
- Provided a Fraudulent financial statement filed with the court (that he submitted to the lower Court (non-disclosure of assets), and)
- Committed Perjury on all income and expense statements filed with the court (regarding income and expense statement)

Appellant was prevented from bringing much of this behavior into the light of day in the lower court due to judicial misconduct that involved:

- abuse of discretion regarding new evidence (of 1, Commerce Casino K1, Stone and Youngberg interest revealed it was a marital asset- Mike Roos and company had value never disclosed, sale of family home, Fraudulent sham undisclosed trust, dad died no will and or probate and:. Fraudulent phony 1031 starker exchange (undisclosed loan discovered on Sacramento property) mothers probate file discovered sham trust undisclosed assets (joint tenancy accounts 1,500,000) all this evidence revealed fraud, concealment of assets, embezzlement of assets and perjury to the court by Michael Roos)
- denial of discovery, and
- denial of the financial resources for proper representation.

Petitioner prays that all costs of this appeal be taxed against Respondent.

Dated: November 26th, 2010
Respectfully submitted,

Lorna Roos In Pro Per
1482 East Valley, #305
Santa Barbara, CA 93108
(805) 845-8395

Abbreviations
and
Documents lodged with the clerk

AA- Appellant's Appendix volumes I-V (lodged with the clerk of U.S. Supreme Court)

AOB-Appellant's Opening brief Appendix "E"

RRB-Respondent's Reply brief Appendix "K"

ARB-Appellant's Reply brief Appendix "L"

OA- Oral Arguments (CD lodged with clerk)

OP-Opinion of Court of appeals Appendix "A"

AD- Appellate Docket Appendix "R"

PFR-Petition for rehearing (lodged with clerk)

PFR-Petition for review (lodged with clerk)

MTS-Motion to strike Appendix "S"

MTA-Motions to augment Appendices M-O

JN- Judicial Notice Appendix "P"

Appendix A

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION THREE

COURT OF APPEAL-SECOND DIST
FILED
JUN 23 2010
JOSEPH A. LANE CLERK
DEPUTY CLERK

In re the Marriage of LORNA and MICHAEL ROOS.

B216438

(Los Angeles County Super.Ct. No. BD202859)

LORNA ROOS,
Appellant,

v.

MICHAEL ROOS,
Respondent.

APPEAL from an order of the Superior Court of Los Angeles County, Rudolph Diaz, Judge. Affirmed.

Lorna Roos, in pro. per.

Appendix A

Law Offices of Goodman and Metz and Jordon Metz for Respondent.

INTRODUCTION

This is a marital dissolution case. Lorna Roos (Lorna) appeals a post-judgment order denying her motion to set aside the judgment, granting the motion of Michael Roos (Michael) to quash Lorna's subpoenas, and denying Lorna's motion to "freeze assets." We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

Michael and Lorna Roos were married in 1988 and permanently separated in 1999. They have two daughters: Caroline born in 1991 and Catherine born in 1993. After Michael and Lorna separated, Lorna commenced a marital dissolution action.

In April 2004, the superior court held a trial regarding the issue of division of property. On June 4, 2004, the court entered a judgment. The judgment divided the community personal and real property and declared certain assets separate property. The judgment also required Michael to pay Lorna $6,958 per month for child support and $10,000 per month for spousal support for two years, and then $8,000 per month for spousal support until the death of either party, the remarriage of Lorna, or further order of the court.

Appendix A

On September 29, 2008, Lorna filed a motion to set aside the judgment dated June 4, 2004. Lorna alleged that the judgment should be set aside on the grounds of actual fraud, perjury, mistake, and failure to comply with disclosure requirements. With her motion, Lorna filed a three and one-half page sworn declaration, which include documents attached as exhibits.1

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1 The appellant's appendix also includes a 16-page print-out of an unsigned email from Lorna to an unknown recipient, dated October 27, 2008, along with an exhibit list of 88 exhibits and copies of those exhibits. Although Lorna contends that these documents were "submitted" to the court on October 28, 2008, in support of her motion to set aside the judgment, the documents are not conformed and there is nothing in the record indicating the documents were lodged with the superior court. In fact, the superior court case summary in the record does not include an entry for these documents. Accordingly, we cannot consider these documents because they were not filed or lodged in the superior court. (*Sahadi v. Scheaffer* (2007) 155 Cal.App.4th 704, 723.) Likewise, we deny Lorna's motions to augment the record because the documents she sought to include in the record were not before the superior court at the time it issued the order Lorna appeals.

After Lorna filed her motion, the case was reassigned several times and the hearing on the matter was continued to January 28, 2009. In the meantime, on January 7, 2009, Lorna served four subpoenas seeking documents relating to Michael's finances, including Michael's tax returns. The

subpoenas were served on Michael, Michael's accountants, and two other third parties.

On January 14, 2009, Michael filed a motion to quash the subpoenas. Subsequently, the trial court set the hearing on Lorna's motion to set aside the judgment and the hearing on Michael's motion to quash on April 27, 2009.

On April 15, 2009, Lorna filed an ex parte motion for an order "(1) freezing [Michael's] assets including Commerce Casino Card Club interest held by [Michael] and [Michael's] sister, Melissa Roos Walker; (2) prohibiting the destruction or alteration of any documents; (3) requiring [Michael] to submit a full accounting of all assets wrongfully transferred via the concealed sham trust/fraudulent Roos Family Living Trust, tax returns on Mike Roos individual [*sic*], Mike Roos and Company, the Roos Family Living Trust, and any and all EIN tax returns not disclosed as previously requested in subpoenas issued for hearing the set-side motion and Mike Roos needs to provide a current final financial disclosure within 10 days; (4) pulling the passports of both Mike Roos and Melissa Roos Walker until there is a complete accounting of all monies received from Commerce Casino Card Club so the losses and damages sustained to [Lorna] and [Lorna's] twin sister can be completely recovered and satisfied (5) joining [Lorna's] twin sister, Leslie Stevenson Reilly to the case and (6) authorizing expedited discovery for set-aside motion to be heard on April 27th, 2009."

This motion was based on the same documents filed with the motion to set aside the judgment, as well as an unverified eight-page declaration. We shall refer to this motion as Lorna's "motion to freeze assets."

On April 15, 2009, the court denied Lorna's motion to freeze assets without prejudice on the ground that Lorna did not provide notice to Michael. However, the court stated that the motion would be considered on April 27, 2009, provided Lorna gave Michael notice.

On April 27, 2009, the superior court denied Lorna's motion to set aside the judgment, granted Michael's motion to quash, and denied Lorna's motion to freeze assets. This appeal followed.

CONTENTIONS

Lorna makes numerous arguments regarding alleged errors made by the superior court over an extended period of time. However, Lorna's notice of appeal only relates to the superior court's order dated April 27, 2009. We shall limit this opinion to the Lorna's appeal of that order.

Lorna's primary argument is that the superior court abused its discretion in denying her motion to set aside the judgment. The gravamen of Lorna's argument is that the judgment should be set aside because Michael committed actual fraud and perjury by lying about his assets and failing to disclose assets to the trial court. Lorna contends, inter alia,

that Michael failed to disclose (1) assets in the Roos Family Living Trust, including shares in the Commerce Casino Club, (2) accounts he held in joint tenancy with his mother, (3) his interest in various businesses, and (4) accounts with Charles Schwab, Bank of America and Wells Fargo. She also contends that Judge Kenneth Black of the superior court "fraudulently" gave Michael certain credits against his support obligations. Lorna seeks, among other relief, an order vacating the judgment, granting her attorney fees, "freezing" Michael's assets, and allowing her to conduct discovery.

DISCUSSION

1. *Lorna's Motion to Set Aside the Judgment*

Family Code section 2122 provides: "The grounds and time limits for a motion to set aside a judgment, or any part or parts thereof, are governed by this section and shall be one of the following:

"(a) Actual fraud where the defrauded party was kept in ignorance or in some other manner was fraudulently prevented from fully participating in the proceeding. An action or motion based on fraud shall be brought within one year after the date on which the complaining party either did discover, or should have discovered, the fraud.

"(b) Perjury. An action or motion based on perjury in the preliminary or final declaration of disclosure, the waiver of the final declaration of disclosure, or in the current income and expense statement shall be

brought within one year after the date on which the complaining party either did discover, or should have discovered, the perjury.

"(c) Duress. An action or motion based upon duress shall be brought within two years after the date of entry of judgment.

"(d) Mental incapacity. An action or motion based on mental incapacity shall be brought within two years after the date of entry of judgment.

"(e) As to stipulated or uncontested judgments or that part of a judgment stipulated to by the parties, mistake, either mutual or unilateral, whether mistake of law or mistake of fact. An action or motion based on mistake shall be brought within one year after the date of entry of judgment.

"(f) Failure to comply with the disclosure requirements of Chapter 9 (commencing with Section 2100). An action or motion based on failure to comply with the disclosure requirements shall be brought within one year after the date on which the complaining party either discovered, or should have discovered, the failure to comply."

We review a trial court's order denying a motion to set aside a judgment for abuse of discretion. (*In re Marriage of Brewer & Federici* (2001) 93 Cal.App.4th 1334, 1346.)

Lorna contends that the judgment should have been set aside by the trial court based on Family Code section 2122, subdivisions (a), (b), and (f). However, Lorna did not file any admissible evidence

to support an order to set aside the judgment based on these grounds. Lorna's declaration in support of the motion consisted of mainly arguments, conclusionary statements, and allegations against Michael and the trial judge.

For example, Lorna stated the following in her declaration: "How could this [trial] court not allow proper discovery and award [Michael] every single asset in dispute based on fraud, malice, and oppression? The court at a minimum should have demanded the tax records from [Michael] and a current appraisal on the family home as the fraud, perjury, mistakes, and failure to comply with disclosure requirements would have been discovered much earlier. It's just criminal that all the orders on this divorce case have been based on actual fraud, perjury, mistakes, and failure to comply with disclosure requirements." These statements are conclusionary arguments; they are not evidence of actual fraud, perjury or a failure to disclose.

We have reviewed Lorna's declaration and the exhibits attached thereto and cannot find any *evidence* of actual fraud, perjury, or failure to disclose by Michael, or any misconduct by the trial court. Accordingly, we hold that the trial court did not abuse its discretion in denying Lorna's motion to set aside the judgment.

2. *Michael's Motion to Quash Subpoenas*

Appendix A

In a marital dissolution case, the superior court has discretion to allow a party to conduct post-judgment discovery relating to community estate assets or community estate liabilities that were not previously adjudicated by the judgment. (*In re Marriage of Hixson* (2003) 111 Cal.App.4th 1116, 1120-1121; Fam. Code, § 2556.) We review the superior court's decision to deny or limit post-judgment discovery for abuse of discretion.
(*In re Marriage of Hixson*, at p. 1121.)

In her reply brief, Lorna states that she is challenging on appeal the superior court's decision to grant of Michael's motion to quash Lorna's subpoenas. Lorna does not, however, provide any reasoned argument, citation to authority, or citation to the record to support her challenge. Accordingly, the issue of whether the trial court abused its discretion in quashing Lorna's subpoenas is forfeited. (*In re Marriage of Falcone & Fyke* (2008) 164 Cal.App.4th 814, 830 (*Falcone & Fyke*); *Nelson v. Avondale Homeowners Assn.* (2009) 172 Cal.App.4th 857, 862 (*Nelson*).)

3. *Lorna's Motion to Freeze Assets*

Lorna also challenges on appeal the superior court's denial of her motion to freeze assets. But Lorna does not provide any reasoned argument or citation to authority to support her challenge. The issue of whether the superior court erroneously

denied her motion to freeze assets is thus forfeited. (*Falcone & Fyke*, *supra*, 164 Cal.App.4th at p. 830; *Nelson*, *supra*, 172 Cal.App.4th at p. 862.)

We nevertheless reviewed Lorna's declaration in support of her motion to freeze assets dated April 15, 2009. This declaration did not constitute admissible evidence because it was not signed under penalty of perjury. (Code Civ. Proc., § 2015.5.)

Moreover, the declaration mainly consisted of conclusionary arguments and unsupported allegations against Michael, the trial judge, the district attorney's office, and others.

Based on the evidence presented to the superior court, or lack thereof, the superior court did not abuse its discretion in denying Lorna's motion to freeze assets.

DISPOSITION

The order dated April 27, 2009, is affirmed. Michael Roos is awarded costs on appeal.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

KITCHING, J.

We concur:

KLEIN, P. J.

CROSKEY, J.

Appendix B

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Attorneys for Respondent
MICHAEL ROOS

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

In Re the Matter of: CASE NO. BD 202859

LORNA ROOS Hon. Rudolph Diaz
Department 83

Petitioner,

and ORDER AFTER HEARING

MICHAEL ROOS DATE: April 27, 2009

Appendix B

TIME: 1:30 P.M.

Respondent. PLACE: Dept. 83

_____/

The above-entitled matter came on regularly for hearing on the Motion to Set Aside Judgment dated June 4, 2004 filed by Petition-

1

ORDER AFTER HEARING

er; the Motion to Quash filed by Respondent, and Petitioner's *Ex Parte* Motion Freezing Assets. Petitioner, Lorna Roos appeared *in pro per* and counsel Jordan Metz of the Law Offices of Goodman & Metz appeared on behalf of Respondent, Micheal Roos, the Honorable Rudolph Diaz Judge, presiding.

After reviewing the pleadings filed by the parties, as well as other documents in the file and after taking testimony of the parties and hearing oral argument from counsel, the Court ruled as follows:

1. Petitioner's Motion to Set Aside Judgment dated June 4th,2004 is denied.
2. Respondent's Motion to Quash Subpoenas Duces Tecum is granted.
3. Petitioner's *Ex Parte* Motion Freezing Assets is denied.

Appendix B

APPROVED AS TO FORM AND CONTENT:

Dated:_____,2009 Dated:_____, 2009

Lorna Roos	Jordan Metz
Petitioner In Pro Per	Attorney for Respondent Michael Roos

IT IS SO ORDERED

Dated:_____, 2009

JUDGE OF SUPERIOR COURT

Appendix B

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Dept: Dept. CE 83

Date	04-27-09			[CE 83]	
Honorable	RUDOLPH DIAZ	Judge	G REGALADO	Deputy Clerk	
Honorable		Judge Pro Tem	M. BAXTER	Court Assistant	
13	J. PENA	Deputy Sheriff	J. HOLLIFIELD #12564	Reporter	

1 30 p.m. BD202859

Roos, Lorna (X) — Counsel For Petitioner — In Pro Per (x)

VS

Roos, Michael (N/A) — Counsel For Respondent — JORDAN METZ (X)

Nature of Proceedings: PETITIONER'S MOTION- TO SET ASIDE JUDGMENT; RESPONDENT'S , MOTION TO QUASH; PETITIONER'S EX-PARTE APPLICATION TO FREEZE ASSETS.
T

The matter is called for hearing.

Petitioner's motion to set aside judgment is denied.

Respondent's motion to quash is granted.

Petitioner's ex parte application to freeze assets is denied.

Counsel for respondent shall prepare an Order After Hearing.

DEPT Dept CE 83 [CE 83]

MINUTES ENTERED 04-27-09 COUNTY CLERK

Appendix C

Court of Appeal, Second Appellate District, Division Three-No. B216438

S184605

IN THE SUPREME COURT OF CALIFORIA

En Banc

In re the Marriage of LORNA ROOS and MICHAEL Y. ROOS.

LORNA ROOS, Appellant,

v.

MICHAEL Y. ROOS, Respondent.

SUPREME COURT
FILED
SEP – 1 2010
FREDRICK K. OHLICK CLERK
Deputy

The Petition for review is denied.

GEORGE

Chief Justice

Appendix D

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT

DIVISION 3

July 12, 2010

Lorna Roos
1482 East Valley Road #305
Santa Barbara, CA. 93108

LORNA ROOS,
Petitioner and Appellant,
v.
MICHAEL Y. ROOS,
Respondent.

B216438
Los Angeles County No. BD202859

THE COURT:

Petition for rehearing and the request for judicial notice is denied.

Cc: All Counsel
File

Appendix E

IN THE COURT OF APPEALS OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT, DIVISION THREE

LORNA ROOS
PETITIONER AND APPELLANT

APPEAL NO. B216438

v.

SUPERIOR COURT NO. BD202859

MICHAE Y ROOS

RESPONDENT

APPEALS FROM JUDGMENTS OF LOS ANGELES
THE SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES
SUPERIOR COURT JUDGE RUDOLPH DIAZ
AND JUDGE KENNETH A. BLACK

APPELLANT'S OPENING
BRIEF

Lorna Roos In Pro Per
1482 East Valley Rd. #305 Encino,
Santa Barbara, CA. 93108
(805) 845-8395

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STATEMENT OF THE CASE

Lorna Roos appeals from post judgment orders in this dissolution case based on fraud, perjury, breach of fiduciary duty, failure to disclose, abuse of discretion, political corruption, judicial misconduct, and an unfair playing field. AA 1292-1296

On July 17th, 2007 The District Attorney forced Lorna back to Judge Black in Pro Per for new support order be heard before the very Judge who had issued fraudulent support orders in the first place that were not calculated using tax returns when Respondent committed perjury on all income and expense statements filed with the court. AA 1319:5-7, AA 576-598 Judge Black granted third party check credits retroactively to order 11-15-94 for Respondent as support toward his arrearages case with the District Attorney of $924,000, after Judge Webster from the District Attorney heard the case and refused to grant Respondent any credits as Respondent did not come with clean hands and checks were made out to third parties not Lorna Roos. AA 180- 181, AA 586-590 The District Attorney had granted six to ten hearings on this matter for Respondent and Judge Webster finally took the matter off-calendar for Respondent's failure to comply with Family Code 17526. AA 1325-1326,

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AA 579 Respondent failed to appeal the District Attorney's court order on this matter. AA 1325 Instead, Respondent got the case transferred behind Lorna's back without any stipulation signed by Lorna to have another Judicial officer take the case which was in direct violation of Civil code 1008 as Respondent was presenting no new facts or law when Judge Black credited Respondent on the very same third party checks presented at the District Attorney that Judge Webster denied, Judge Black retroactively wiped clean any arrearages case at the District Attorney for Respondent as an open arrearages case would prevent Respondent from being issued a Gaming License by Attorney General Bill Lockyer. AA 583-584 Respondent should never have been issued a Gaming License and Respondent should have been criminally prosecuted for not paying Court ordered support by the District Attorney and or Attorney General. AA 574 This was in direct violation of Family Code 17400 (a) (c) on support arrearage cases and how our District Attorney would allow this to happen was unconscionable and Lorna has never received any signed orders by Judge Black and or the District Attorney on how credits were calculated and or applied to the arrearages case everything has been done behind closed doors including audits at Children and Family welfare services without Lorna's participation whereby Lorna was left without the proper orders to do an appeal and left in

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Pro Per with no representation to preserve her rights and children's. AA 576-581

In addition, Judge Black fraudulently granted more credits for Respondent when Judge Black knew or should have known all support payments were going through the court trustee and a check for $185,000 to Lorna Roos never went through the trustee and was not a support payment yet Judge Black gave double credit to Respondent on the divorce as a divorce equalization check for $185,000 and then $185,000 as support on the arrearages case with District Attorney, $20,000 check was also credited for Respondent for Janus fund in divorce Judgment and then as support at District Attorney by Judge Black(AA 899) , and Respondent received credit for half payment to Page Private School on the divorce by Judge Black when Lorna had paid the school directly with borrowed funds the entire bill so Respondent should not have received half credit on Page school bill at the District Attorney unbeknownst to Lorna which affected her current support and was in direct violation of Family Code 17400 (a) (c) on support arrearages. AA 663, AA 575-598 Every time Lorna inquired about her case with the District Attorney, the District Attorney claimed to be obtaining current tax returns from Respondent and they would correct support orders issued by Judge Black as support orders were not

calculated based on tax returns and would collect on the arrearages case as the equalizing divorce judgment check and third party checks presented by Respondent doesn't count as support as Judge Black fraudulently gave credit retroactively for these checks but the District Attorney never did anything but stall Lorna so Lorna was forced to a state hearing on the matter as the District Attorney allowed audits to be done behind Lorna's back whereby she was not allowed to participate in any and or see anything signed by Judge Black done behind closed doors with the fraudulent credit calculations done whereby Lorna has never received any of these orders and or calculations that were applied and now stand whereby the District Attorney failed to send Lorna any paperwork to this affect as well. AA 575-598

On 11-30-2007 Lorna was denied discovery and due process by Judge Black on all orders during the divorce process and Judge Black refused to hear OSC's filed by Lorna and refused to sanction and or hear In- Contempt charges when Respondent and Jordan Metz attorney for Respondent had once again refused to produce any financial records, tax returns, and or satisfy subpoenas when information being sought was required to move forward on support order hearing to be calculated on accurate and complete information. AA 1308, AA 552-559, AA 175 These

subpoenas were never satisfied which was in direct violation of Family Code 3667.

On 4-1-2008 Judge Black ignored the new overwhelming evidence and material facts revealing major fraud and perjury by Respondent from the limited subpoenas that were satisfied at court for support order and put on record by Lorna as Lorna had just recently figured out from k-1 form sent to courthouse from Commerce Casino and new evidence information gathered from Respondents mothers probate file that Respondent did indeed own the Commerce Casino during the marriage whereby Respondent failed to disclose the Roos Trust during all divorce proceedings that Respondent was a co-trustee/ owner of the trust and main asset of the Trust was the Commerce Casino 20 shares that Respondent falsely represented to the court and Lorna was his mothers separate property. AA 63-165

Also, Lorna noticed on Stone and Youngberg k-1 form and Rick Marcus declaration that was received on support order motion that Mike Roos' status was married for tax basis when the L.L.C. was formed between Respondent and Stone & Youngberg whereby Respondent had failed to disclose Stone & Youngberg on his final financial disclosure and proved Respondent had committed perjury he concealed this material fact and claimed Mike Roos & Company had no value little income $20,000 a month if that at trial. AA 493 495, AA 43

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Lorna immediately notified the court of newly discovered evidence which was put on court record by Lorna 4-1-08 exposing Respondent had committed perjury, kept material facts concealed and failed to disclose sale of the family home (AA76), the Roos Trust (AA 87-125), EIN #33-6088274 Exempted trust (AA 136), ownership of Commerce Casino (AA121), income from Commerce Casino (AA204-225), ownership of joint tenancy accounts totaling $1,500,000 in assets as stated by Respondent in Respondents mothers probate file. (AA 315: 21), ownership Stone & Youngberg (AA 43), income from Stone & Youngberg (AA 43), Mike Roos & Company, and true income from Mike Roos & Company as Lorna just recently discovered should have been a community asset because Respondent failed to disclose Mike Roos & Company and Stone & Youngberg partnership LLC. AA 17, AA43

Judge Black knew none of these concealed assets were disclosed by Respondent on his final financial disclosure dated 3-1-2000 as his separate, quasi-community, and or community property only the family home was disclosed but was undervalued by Respondent which was in direct violation of Family Code 1101(h). AA 156-163

Judge Black should have ordered Respondent immediately forfeit the difference in the under value price placed on the family home by Respondent and the sale price profit attained on the family home by Respondent and Judge Black should have ordered

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Respondent forfeit all the concealed assets the Roos Trust assets, EIN 33-6088274 Exempted Trust assets, Commerce Casino Club 20 shares, Mike Roos & Company, Stone & Youngberg interest, and joint tenancy accounts totaling $1,500,000 as stated in Respondents mother's probate file in their entirety as requested by Lorna in her filing on April 1st, 2008 as Lorna was denied discovery during all the divorce proceedings because of Respondents non disclosure and perjury as Respondent falsely portrayed his mother owned Commerce Casino as her separate property and Respondent never disclosed the existence of the Roos Trust that he was a co-trustee/owner and was fraudulently created by Respondent and his mother during the marriage to embezzle assets. AA 341, AA 63-154, AA 326-330

Also, on 4-1-08 Judge Black refused to have Mike Roos and or his accountant sign I.R.S. tax verification forms for tax returns when requested to do so by Lorna and was now warranted with the non-disclosure and breach of fiduciary duties by Respondent as he violated Family Code 1101 (h) within the ambit of section 3294. AA 74 AA 175 Judge Black knew Respondent concealed income from Commerce Casino during all the divorce proceedings as he failed to disclose the 20 shares of Commerce Casino as per trust AA 87-136 AA 317-324 Respondent now claimed he only received $18,136 a month for year 2007 on an interest of

.0682594/ 10 shares in Rick Marcus declaration and was never included in calculation for support. AA 39 Respondent knew that this income represented only 10 shares of ownership not the full 20 shares that were concealed as Respondent had now parked 10 shares with his sister Melissa Roos Walker. AA 133:5 The k-I form sent to the court house is for .0682594%/10 shares with income of $270,261 a year. AA 204-225 Respondent attempted to disclose only income on 10 shares not the full 20 shares as the income on this asset should be closer to $50,000 monthly for an interest in Commerce Casino 1.36%/ 20 shares as listed in concealed and fraudulently created Roos Trust. AA 121, AA 204-225

Judge Black never required Respondent and or his accountant Rick Marcus to turn over tax returns for Respondent, Mike Roos & Company, The Roos Family Trust, and EIN #33-6088274 Exempted trust when subpoenaed to do so to verify income and or ownership of income producing assets as requested by Lorna when Judge Black knew Respondent had committed fraud and perjury on every previously filed income and expense statement and Respondent failed to disclose these assets on his final financial disclosure filed 3-2-2000 (AA 156- 163)and the clear and convincing evidence put forth by Lorna on 4-1- 2008 proved Respondent to be a outright lair and criminal. AA 1235-1250, AA 45-165

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On 8-29-08 Judge Black issued another support order using no tax returns but used instead a declaration unaudited and prepared by Respondents accountant Rick Marcus (AA 1-44) and accountants testimony which was in direct violation of Family Code 3665 (a) (b) as the order should have been calculated using prior year's federal and state tax returns because Respondent had a creditability problem. AA 1308-13, AA 631-738 Lorna was denied attorney fees and was not qualified to do a support order with only a high school education when Respondent was represented by counsel and had refused to turn over any tax returns or audited financials when subpoenaed to do so. AA 63-74 Judge Black knew this was the same accountant that helped Respondent deceive Lorna and Leslie into thinking that there was a valid 1031 starker exchange and helped perpetuate fraud by Respondent and his mother whereby they had claimed ownership for mother on family home when Respondent's mother never invested any money and had embezzled assets separate property of Lorna and Leslie Stevenson's, quasi-community, and community assets through the use of fraudulent documents like the starker exchange agreement and now new evidence revealed the concealed Roos Family Trust and exempted trust. AA 69, AA 175-190

Once again Lorna was forced to file another motion in Pro Per, Lorna filed to have

judgment dated 6-4-04 set aside and for attorney fees on 9-29-08 in Judge Black's courtroom based on the fraud, perjury, breach of fiduciary duties, and non-disclosure by Respondent. AA 1308:9-10, AA 45-165

The Roos v. Roos matter was transferred to Los Angeles Superior Court to be reassigned on 10-28-08. AA 1318

On 10-27-08 Jordan Metz attempted to get motion to set aside Judgment dated 6-4-04 dismissed before even heard by telling Lorna she did not need appear on 10-28-08 case was assigned to Judge Mike Convey and motion would be heard on November 12th, 2008. AA 170-171 As Jordan Metz did not send Lorna anything to this effect so Lorna called the court and found out her case had been transferred to Commissioner Mike Convey as requested and stipulated by Jordan Metz and hearing for November 12th was not on calendar. AA 172-173 Lorna never stipulated to have Commissioner Convey hear the case and Jordan Metz attempted to have the case heard and dismissed day before scheduled hearing date for non-appearance by Lorna. AA 166-173

On 10-28-08 Roos v. Roos was assigned to Judge Rudolph Diaz. AA 172-173 Matter was called to hearing and Lorna submitted a case overview full and frank disclosure outlining the many acts of fraud and embezzlement by Respondent in support of motion to set aside Judgment dated 6-4-04 and for attorney fees. AA 174 Lorna was forced

to do this case overview full and frank disclosure for the new Judge as Lorna discovered previous trial briefs were now missing from court docket (AA 625-873), no statement of decision was ever issued by Judge Black on the case which was in direct violation of Civil Code 632 Family Code 3654 when Lorna had requested Judge Black issue one in her written trial brief(AA 734), and there was additional recently discovered new evidence proving Respondent had committed money laundering with his mother and Don Levin through the use of a fraudulent starker 1031 and Respondent had fraudulently created the Roos Trust with his mother to embezzle assets including the separate property of Leslie Stevenson and Lorna Stevenson, quasi-community, and community property. AA 175-1144

Lorna had recently discovered new evidence that Respondents' father died with no will or probate (AA 165) making the whole trust fraud as Walter Roos was listed as an original co-trustor and there was no pour over will and or trust for Walter Roos proved no valid transfer ever took place on assets to the Roos Family trust and all third party evidence proved the trust never existed before Walter Roos died. AA 175-1144

The Commerce Casino dividend checks had Malissa W. Roos trustee (AA 401-407) if the trust was a valid trust the checks would of had The Roos Family Living Trust by name as per the fraudulent trust document (AA 87-125) the

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Commerce Casino investment would never have legally transferred any of the assets to Malissa W. Roos' by name upon Walter Roos' death the Commerce Casino would have remained in the name of the trust as all third party evidence revealed Malissa W. Roos trustee and further proved no valid trust ever existed. AA 178 Respondent parked the Commerce Casino interest in Malissa W. Roos' name to conceal ownership of the asset, dividends paid (ill gotten gains), and to hide the fraudulent Roos family trust that Respondent and his mother had created as co-trustees to steal embezzled assets and income from Lorna and Leslie Stevenson. AA 179

Also, in Respondents mothers probate file a minute order states correctly Walter Roos' paperwork was incomplete because Respondent failed to show proof of will, and or trust for Walter Roos when he died which meant the trust in mothers probate listing Walter as co-trustor was fraud as the trust never existed at the time of Walter's death. AA 432 Respondent had to include Walter Roos' as an original co-trustor because Respondent had parked the Commerce Casino Investment in his father's name first to avoid criminal prosecution with the F.B.I. (Mike Roos held elective office as a State Assemblyman, had the personal relationship with Patrick Moriarity, and it was against the law for Respondent to hold an interest in Commerce Casino) and then Respondent parked the Commerce Casino interest in his mother's name so Lorna and Leslie

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Stevenson would be prevented from proper discovery on this asset if they discovered the 1031 starker was fraud their money embezzled by Respondent and then Respondent fraudulently created the trust with his mother after a brief separation from Lorna and a deposit of a suspicious check of $531,561 (which Lorna alleged in the divorce was an insurance settlement check for Leslie Stevenson Reilly)

thinking it would be impossible for Lorna and Leslie Stevenson to get any discovery during a possible divorce proceeding and Respondent wanted to control the ill gotten gains dividend checks paid as Respondent was already spending the money further harming Lorna Respondent decided to use community funds of $25,000 to pay John Karns (AA 57, AA 859) for preparing the trust documents and will of mother so Respondent could later claim there was a valid trust to avoid paying probate taxes upon his mother's death then transferred all the embezzled assets back to himself using this fraudulently created trust that the community paid to construct. AA 175 -1144 Once again Respondent controlled all the transactions, using his attorneys and accountants and authored and manufactured documents according to what Respondent needed them for money laundering, embezzlement, and concealment of assets. AA 175-193

Most importantly, evidence revealed the parents of Respondent have never been capable of making meaningful investments and or

loans to others and their income has always been at subsistence level and neither received any inheritance. AA 188 Walter Roos was forced to work as a stock clerk at Wal-Mart to make ends meet, lived on Social Security, and died virally broke. AA 176 Respondents mother lived on Social Security and died with less than $20,000 going through her probate estate. AA 227-251, AA 176 Respondent's parents never had the means to make such an investment and when the federal investigators from the District Attorney's office out of Orange County investigated the source of funds used by Walter Roos they determined Walter Roos' did not have the means to make the investment. AA 176 Respondent was very aware of the fact that Walter Roos only had a magnitude of $15,000 in assets as a source of funds, and Respondent was attempting to claim to his attorneys Jack Quinn and David Kenney that he had personally loaned his father $50,000 and the additional funds of $35,000 came from yet another unidentified source. AA 256-259 The correspondence was between David Kenney (same attorney used on Malissa Roos' probate file and the fraudulent creation of the trust, also Respondent was executor of mothers probate file) of Karns and Karabian and Jack Quinn of KPWQ&R who are attorneys working on Respondents behalf. AA 256-259

All meaningful assets and investments in possession of Respondents mother

was acquired during Lorna and Mikes' marriage as a result of diverting the community and or separate property of Lorna and Leslie Stevenson's through criminal activities of Respondent. AA 188 In Respondents mothers probate file there was a Petition for determination of proration of estate taxes and it stated all the meaningful assets were either held in joint tenancy with Respondent and Respondent's mothers name or in Roos Family Living Trust that Respondent controlled and failed to disclose as his separate property totaling at least $1,500,000. AA 315: 21 Respondent falsely testified the Iroquois property his mother lived in had never been given to him and or his sisters any interest in this property when Lorna claimed the property was part of the community estate Respondent knew the Iroquois property was held by Respondent and Respondents mother in joint tenancy and Respondent committed perjury and failed to disclose this asset as his separate and or community property. AA 302-306

Also, Respondent failed to disclose he was a special co-trustee within the Roos Trust whereby Respondent owned life insurance policies on his parents. AA 261-300 In addition, Respondent failed to disclose Prudential account that was originally accounted for on his mothers probate Inventory and Appraisement but then subsequently taken off by Respondent because Respondent claimed

it was a joint tenancy account with his mother. AA 308-313

Lorna alleged in her written trial brief filed with the court but was later listed on court docket as not received that Respondent had stolen the money from sale of Sacramento to pay back Don Levin for an undisclosed loan whereby Respondent used the funds to make the investment into Commerce Casino but Lorna was unable to find the undisclosed loan because Lorna had her files stolen from the courtroom on first day of trial 3-9-00 (AA 600-606) and Lorna was never allowed discovery on this asset and or given an opportunity to have the stolen records replaced by Judge Black. AA 175-193 Judge Black allowed two days of trial to proceed from 3-9-00 to 3-10-00 without a final financial given to Lorna it wasn't until Lorna was made aware of a final financial and given a copy on 4-17-00 then Respondent claimed he filed one with the court on 3-2-00. AA 317-324 Judge Black knew that the 45 day rule had been violated but failed to make Lorna aware of the Family Code 2105 as Judge Black denied Lorna discovery on assets listed on Respondent's final financial disclosure. AA 705-706, AA 637 Judge Black closed trial on 3-10-00 and allowed Respondent then attorney Robert Newell to have a meeting with Judge Black to discuss the possible outcome as Lorna had not discovered everyone had kept her from knowing about the support order that was on file and Respondent's

attorney at trial asked questions of Lorna about Respondents financial abuse and it just got worse and worse for Respondent as Respondent had taken Lorna off all bank accounts many times over and refused to pay bills in her name alone whereby Respondent had ruined Lorna's credit because of this abuse. AA 708-738

Lorna's evidence proved in trial brief filed with court the check proceeds from sale of Sacramento property went directly to Don Levin and Respondents mother yet Judge Black refused discovery. AA 673-674 ,AA 632-738 Lorna went everywhere even Sacramento and searched all the files connected to the fraudulent 1031 exchange trying to figure out what exactly happened. AA 175-193

Lorna just recently discovered there was a fraudulent transfer of title on Sacramento property to Don Levin by Respondent as no exchange of property occurred and all sale proceeds went to Don Levin and Respondents mother. AA 814-817 Respondent falsely attempted to state his mother owned land on Kenilworth and 1031 starker exchange had purchased 25% interest in land that Respondents mother never owned and or purchased and was already owned by the community in full so then Respondent claimed his mother owned a 1/3 interest in family home for unpaid bogus loan for purchase of land, and then Judge Black ended up awarding $64,000 to Respondent in Judgment as his separate contribution without any

third party verification other than some authored and manufactured documents by Respondent asking for a proposed contribution $60,000 be made into house from his parents for 1/3 ownership interest that parents never made as it was Lorna's twin sister Leslie that made the contribution to the family home for $97,000 with checks submitted to prove the community took money for construction phase on home but was ignored by Judge Black . AA 1103, AA 524-530 Leslie Stevenson has never been paid back a dime for $97,000 investment made into Kenilworth and Leslie and Lorna Stevenson have never received a dime from their investment made into Sacramento property as Respondent was able to divert all the money from Sacramento property making it look like a starker 1031 happened when the sale proceeds were used to pay back Don Levin for undisclosed loan. AA 1309-1062, AA 985-1002 Don Levin and Respondent laundered away undisclosed loan to Charles Cunningham in the amount of $128,050(AA 195-202) which Lorna just discovered was intentionally concealed with the use of fraudulent 1031 starker exchange as a cover story. AA 985-1002, AA 175-193

Respondent personally used Sacramento property as collateral to get loan for $128,050 from Don Levin without permission from Leslie and or Lorna Stevenson as the loaned money was diverted and used to purchase the investment into Commerce

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Casino Respondent and Don Levin kept this material fact and fraudulent undisclosed loan concealed. AA 195-202, AA 175-193 The $128,050 concealed loan was later assumed by Charles Cunningham as new evidence proves two loans being conveyed on Sacramento property. AA 198 Respondent had Lorna and Leslie into thinking the money went into Kenilworth home and Don Levin's strongest banking relationship was with First Regional Bank who created a deceptive letter stating a pay down occurred on the construction loan when in the same letter it states a reversal was done a few days later to correctly state there was a reversal on the construction loan of the amount borrowed not paid down. AA 1064 Respondent fraudulently took Leslie Stevenson off title on Sacramento property forging her name on a quick claim deed to make the transaction possible. AA 1004-1026

Also, Respondent made many false claims of borrowing from his mother including a loan for $164,000 for purchase of two lots #538 and #540 on Kenilworth and Respondent closed escrow on these two lots on their wedding day 9-16-88 and evidence revealed Respondent took out a deed for $100,000 from Jack Jefferies owner total purchase price of actually $100,580 (AA 1083) for two lots not $164,000 as alleged by Respondent and very first payment was made with community funds on loan. AA 188 Tax information on sale states land value for lot #538 at $85,000 and lot #540 at $6,399 when

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Respondent bought the lots and then Respondent reported land value prices changed when Respondent sold one lot to Arnold Forde for $130,000 but reported the value at #538 $85,000 and #540 $79,000 to match Respondents prior lie of $164,000 for the lots and then Respondent had the county assessor's office change the APN #'s to bury the fraud committed as Respondent did not report the correct sale price $130,000 for one lot sold to Arnold Forde. AA 1090-1099, AA 188 Respondent showed no check from his mother in amount of $164,000 but Judge Black awarded Respondent with separate property contribution $64,000 in Judgment dated 6-4-04. AA 58 Respondent gave testimony he paid his parents back $100,000 when one lot sold to Arnold Forde (close friend of Respondent used as a conduit) for $130,000 and never explained what happened to remaining $30,000. AA 888 Respondent paid Jack Jefferies $100,000 to release lot to sale to Arnold Forde then Respondent took out undisclosed loan with Arnold Forde for $75,000 but doesn't record undisclosed loan until few months later on Keniworth home. AA 892 Respondent collected $75,000 from Arnold Forde and $130,000 from sale of one lot from Arnold Forde but instead had Arnold Forde funnel his parents $100,000 and then paid Jack Jeffries $100,000 leaving a concealed undisclosed loan for $75,000 that the community had to service and pay off as Respondent had the deed of trust recorded on Kenilworth home. AA 497-508

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Respondent prepared deed of trust with Arnold Forde in favor of Respondents mother first than it was transferred to Arnold Forde later Respondent admitted forging Lorna's signatures (AA 878-879) on these loan documents and Respondents mother was present as well. AA 188 Respondent and Respondents mother learned how to steal money out of the marriage on Kenilwoth property by creating debt and diverting funds and then the community repaid the debt. AA 187-188 Lorna never got discovery on where the $100,000 went that was funneled to Respondents mother as Judge Black never held Respondent and or Respondents mother accountable for their non-appearance at court and for not satisfying validly served subpoenas. AA 635-639 Respondent used this same method of fraud on a John Burton loan $50,000 as well and Lorna never got behind where that money went as Judge Black denied discovery on all these financial transactions. AA 510 No third party evidence was presented by Respondent that proved his mother ever loaned the community money in fact the evidence revealed it was Respondents mother that received monies from the community and never repaid the community whereby Lorna was denied discovery because Respondent falsely claimed his mother had borrowed on behalf of the community, loaned, and gifted monies from her separate property investment into Commerce Casino. AA 179 Respondent testified he re-financed the family home on Kenilworth once for a

better rate and made substantial principle payments to the loan using community funds (AA 513) but evidence revealed loan debt on Kenilworth was actually higher than 10 years previous which proved Respondents testimony was false yet Judge Black did not let Lorna have discovery on Kenilworth property to figure out how much money Respondent and Respondents mother embezzled and had diverted elsewhere as Lorna has no idea where $50,000 John Burton loan (AA 510), $75,000 Arnold Forde loan (AA 497-508), $100, 000 to mother on lot sale (AA 888), $15,000 from construction loan sent directly to Malissa W. Roos (AA 1068), approx. $55,000 paid falsely to Mike Roos from construction loan(AA 1070-1071),sale proceeds from Griffin Park condo (AA 1032 -1035) , and sale proceeds from Sacramento (AA 803) etc.. AA 667-683

Also, Judge Black inappropriately carved-out and awarded Respondent investment assets that existed in community owned investment account at Charles Schwab that Respondent failed to disclose on his final financial and should have immediately forfeited the $300,000 on this account but Respondent claimed the money was from Prop 10 on Mike Roos & Company of $300,000 supposedly paid to the community in installments of $25,000 a month in 1998 went to Charles Schwab but disappeared and was never accounted for but the community paid tax on this amount on the 1999 tax return and Judge Black never included the $25,000 a month from prop

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10 in the support order either and or granted Lorna any credit on Mike Roos & Company as Respondent claimed he only had one client prop 10 but was no longer his client and Respondent claimed he was grossing only $20,000 a month because of this. AA 875-899, AA 1101-1117, AA 659-660 Respondent should have been ordered to forfeit $300,000 because Respondent had failed to fully disclose the account and Lorna still does not know what happened to prop 10 money of $300,000 as she was denied discovery on that asset. AA 875-899, AA 188 Also, Respondent had claimed in his final financial community owned security assets of $300,000 Respondent (AA 1102)used this tactic of same amounts with no account numbers to get double credit which he has become a professional criminal at by using the method over and over again and when Respondent failed to list account numbers on his final financial

Lorna requested Judge Black to demand Respondent file a new final financial statement because of Respondents deceiving methods Lorna wanted the financial completed with the proper verifiable information to include all bank accounts, mutual funds, life insurance, brokerage accounts, trust accounts etc... AA 789-790, AA 784-785 Judge Black refused to demand Respondent file out a complete final financial disclosure. AA 733-734

Respondent controlled all paperwork on financial transactions, even authored and manufactured evidence in advance of getting

caught on fraud to cover up embezzlement and undisclosed loans with Don Levin, Arnold Forde, and John Burton. AA 175-1144

Respondent and or his attorneys have not sent a Response to Lorna disputing any material facts put forth and or evidence in case overview full and frank disclosure outlining many acts of fraud and embezzlement by Respondent and or filed a Response with the court to case overview when Respondent was served to do so 1-16-09. AA 1308:7, AA 175-1144 Respondent has never appeared again at court since fraud was put on the record 4-1-08 only his attorney Jordan Metz has appeared on his behalf at all scheduled hearings. AA 1307-1326 (court docket incorrectly lists Respondent in Per Pro when Respondent was represented by counsel)

On 1-14-09 Diane Goodman filed Ex-Parte motion to Quash for Respondent in Judge Amy Pullman's courtroom without proper notice given to Lorna and motion was denied but matter was set for hearing 1-28-09 granting shorten of time for Respondent when Respondent had already failed to file within the time frame allotted for an objection. AA 1318 Lorna did not receive order until 1-27-09 which read Response due 1-21-09 and reply 1-26-09. Diane Goodman failed to give notice to Lorna. AA 1252

On 1-27-09 Lorna received motion for quash filed by Diane Goodman on behalf

of Respondent scheduled to be heard the following day. AA 1172-1252 Lorna immediately responded and brought the courts attention to the fact Diane Goodman was engaging in criminal, malicious, and unethical behavior. AA 1255-1257 Diane Goodman claimed subpoenas for set aside motion were irrelevant and immaterial because previously issued subpoenas for support order were allegedly quashed by Judge Black. AA 1255-1256 Judge Black never granted motions to quash on support order motion and Diane Goodman knew her claims were false as Goodman and Metz represented Respondent on support order motion and never filed for motions to quash with Judge Black. AA 1255-1256

Judge Black never required subpoenas be satisfied as Judge Black used an unaudited declaration prepared by Rick Marcus and no tax returns to determine support order in direct violation of Family Code 3552 . AA 1-44 for the record prior subpoenas issued asked for information regarding income for support order and have never been properly satisfied, and would have been required by a reasonable Judge knowing facts on this case and Judge Black should have demanded information being sought to determine income and value of assets that were embezzled, undervalued, and concealed by Respondent. AA 1255-1257 Subpoenas for set aside motion still need to be satisfied to determine assets that have been hidden

by Respondent and would also help determine the extent of fraud involved in case. AA 1257

Goodman & Metz and Respondent have interfered with all subpoenas, due process, and told them to not respond. AA 1255-1257 Diane Goodman wanted sanctions and attorney fees when Diane Goodman falsely claimed Lorna harassed Respondent because Lorna asked for what any reasonable person would ask who for third party verification as Respondent was guilty of lying, concealing assets, perjury and fraud. AA 1172-1250

Diane Goodman should be sanctioned for supplying the court with false information, delaying justice, taking up valuable courts time, maliciously sending Lorna a motion with no time to respond, and interfering with due process. AA 1257 Lorna requested previously filed In-Contempt charges on Respondent and Jordan Metz be heard by Judge Diaz as they were put off calendar by Judge Black as Respondent and attorneys refusal to satisfy subpoenas and interference with subpoenas had become an issue again. AA 1256 Diane Goodman never appeared at court for Respondent in support of Ex-parte motion she filed on 1-14-09 it was Jordan Metz who appeared on behalf of Respondent on 1-28-09. AA 1318 Also, Diane Goodman never appeared at court after Lorna filed a response to motion to quash. AA 1253-1259, AA 1318

On 4-15-09 Lorna was forced to file in Pro Per for Ex-Parte Freezing Assets and

other relief to protect Lorna and Leslie Stevenson's interests as Judge Diaz put off hearing set aside motion from 10-28-08 to 4-27-09 which violated the 180 day Rule as original motion was filed 9-29-08 and Judge Diaz had failed to order Respondent turn over any financials, and or satisfy outstanding subpoenas which let valuable time go by with no discovery and Lorna and Leslie Stevenson might lose their chances for full recovery of their embezzled assets from Respondent as Respondent has now closed his offices of Mike Roos & Company and moved into Stone & Youngberg offices as Respondent has already transferred embezzled assets through a fraudulent 1031 exchange that rightfully belongs to Lorna and Leslie Stevenson parked in mother's name through use of yet another fraudulent document the sham Roos trust to Respondent and his sisters and had accounts set up in Bahamas and had the records sealed in Bahamas in advance of getting caught on fraud. AA 1260-1274

Also, on 4-15-09 Lorna requested TRO criminal protective order be issued because Respondent was served with case overview full and frank disclosure outlining his many acts of fraud and embezzlement and Respondent knows with the new evidence he will be prosecuted to full extent of law when case is turned over to proper authorities for prosecution it's just a matter of time and Respondent had already forced Lorna and the children to move from Lorna's hometown of Los

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Angeles to Santa Barbara because of prior threats by Respondent, constant harassment and abuse and because of this Respondent does not have any legal or physical custody of the girls and Respondent has just sent a disturbing note to their daughter Catherine Roos after receiving the case overview and is in violation of court order. AA 1260-1274 Judge Diaz denied Ex-Parte Motion Freezing Assets and Other Relief on 4-15-09 but indicated matter would be heard 4-27-09 provided Lorna gave proper notice to Respondent. AA 1275

At 4-27-09 hearing Lorna turned over to Judge Diaz proof of service verifying motion for freezing assets and other relief was served on Respondent and Respondent never sent Lorna and or filed with court a Response to Motion Freezing Assets and Other Relief with court when served to do so. AA 1279-1280 RT 1-2 Judge Diaz falsely attempted to claim motion was Ex- Parte motion for hearing on 4-27-09 and falsely claimed this was first time Judge Diaz had seen motion when the facts and evidence reveal otherwise. AA 1281-1282 RT3-4 Minute order 4-15-09 clearly states Judge Diaz read and considered moving papers on Motion for Freezing Assets and other Relief. AA 1275 Judge Diaz claimed there was no need to consider Motion for Freezing Assets and Other Relief as Motion to Set Aside was denied because Judge Diaz claimed there was no basis and or lack of proof when the evidence and material facts proved otherwise. AA 1283 RT 5

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There was abuse of discretion by Judge Diaz as no reasonable competent Judge would come to these decisions that Judge Diaz had after reading and reviewing the new over whelming evidence and material facts set forth in case overview outlining many acts of fraud and embezzlement that included Respondent had concealed and never disclosed the Roos Trust which was recently discovered by Lorna that Respondent was a co-trustee/ owner and Respondents conduct constituted fraud within the meaning of Civil Code 3294 was supported by substantial evidence as main asset of the concealed fraudulently created trust was Commerce Casino 20 shares that Respondent falsely maintained was his mothers separate property. AA 45- 165 AA 175-1144 Adding insult to injury Judge Diaz then grants Respondents Motion to Quash. AA 1287 RT9

Lorna was in disbelief as this was the case that Family Code 1101, (h) was passed to address. That law provides that if a spouse breaches the disclosure duty in a manner that is oppressive, fraudulent or malicious, remedies "shall include, but not be limited to, an award to the other spouse of 100 percent, or an amount equal to 100 percent, of any asset undisclosed[.]" (Family Code 1101 (h)) AA 1277-1289 RT 1-10

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STATEMENT OF APPEALABILITY

This appeal is from the judgment of the Los Angeles County Superior Court and is authorized by the Code of Civil Procedure, section 904.1, subdivision (a) (1).

STATEMENT OF THE FACTS

Lorna Stevenson Roos and Michael Y. Roos were married on September 16th, 1988. They first separated on September 16th, 1994, but reconciled shortly thereafter. AA 175-193 They separated again on February 19th, 1999. AA 175-193 They have two minor children and Lorna has full physical and legal custody of Caroline born 11-14-91 and Catherine born 2-3-93. AA 515

Lorna has been denied equal access to representation throughout this whole divorce dissolution without any resources which was in direct violation of Family Code 2030. AA 1265 Judge Black and now Judge Diaz have refused to allocate any money for an attorney for Lorna when she requested money for an attorney and reimbursement for attorneys and court costs on all filings. AA 48 Judge Black knew or should have known Respondent was financially abusing Lorna as Respondent was in arrearages on support, Respondent left Lorna carless, destitute, and Respondent was in possession of all separate, quasi-community, and community property of Lorna's even took Lorna's settlement check of $185,000 on the

divorce and applied that to support and then Judge Black signed off on this and Lorna has been denied orders to this effect in order to prevent a fair appeal. AA 175-1144 There has not been a fair playing field on this case as Lorna was and is disabled and has been forced in Pro Per with only a high school education and Respondent has been to law school, been through the divorce process before, been able to have representation, all filings done by expert attorneys the best money can buy and does not have to appear at court. AA 1265

Let's not forget Respondent failed to inform Lorna that her doctor had called the house and told him that a mole biopsy came back cancerous and Lorna did not get proper treatment as she did not know of this until it started hurting her which was months later. AA 750 Lorna was diagnosed with Addison's disease 2-12-99 weighing only 90 pounds and was diagnosed with derma to fibro sarcoma cancer on 4-5-99 when Respondent was informed of this November 1998. AA 728- 729 , AA 750 Lastly, Respondent was unbelievable cruel leaving Lorna with no money and or way to pay to get prescriptions filled at the pharmacy for her Addison's disease medicine that had to be taken daily to stay alive and without it you will die, basic survival with no credit credits to use as Lorna's credit was already ruined by Respondent because Respondent refused to pay for any medical costs prior to separation to the tune of $200,000 and left most of the community debt unpaid

on all of Lorna's credit cards whereby Judge Black did not award Lorna any Epstein credits for these bills when Lorna requested credit in her further trial brief yet Respondent was given Epstein credits for bills he didn't pay. AA 727-730

Lorna was rushed to trial without a final financial given to her until 4-17-00 at court whereby Respondent filed with the court on 3-2-00 and first day of trial was 3-9-00 and trial ended on 3-10-00 this was in direct violation of Family Code 2105(a) and Lorna just realized this truly affected the trial as she was denied discovery on the assets and was not an attorney. AA 175-193 Judge Black never allowed discovery for Lorna but instead reopened for Respondent to grant possession of the family home to Respondent on Ex-parte motion without notice given to Lorna keeping all her possessions, to grant credits on the arrearages case with District Attorney, and to grant Respondents separate property that Respondent falsely claimed was a gift from mother as Respondent was not going to be awarded the family home, credits on arrearages, and or $100,000 gift from mother when trial ended on 3-10-00 as Respondent failed to address these issues at the two original trial days of 3-9-00 and 3-10-00. Lorna has had time to reflect and now believes Judge Black made Respondent and Lorna put additional trial briefs in writing to manipulate the court docket dump incriminating records and then Judge Black purposely put off hearing property

issues for Respondent and granted no discovery for Lorna when it was warranted when there was a suspicious check of $531,561 and Respondent had a creditability problem, Judge Black successfully delayed and delayed put the trial off until 4-2-2004 thinking Respondent would keep all assets as they knew Lorna was not well and there was a real possibility Lorna would die before a judgment was entered so Leslie Stevenson Reilly would never be able to prove insurance fraud was committed by Tom Girardi on the $531,561 check paid to Respondents mother fraudulently when Leslie Reilly had suffered a broken neck and was permanently disabled. AA 1119 Judge Black had no valid reason to put off a property judgment for over 5 years from separation date while Respondent was able to further financially abuse Lorna and the children keeping her broke to not be able to fight. AA 175-1144

In all the dissolution proceedings Respondent never had to turn over any tax returns, audited financials, and or subpoenaed information when Judge Black knew Respondent was not truthful as the third party evidence proved Respondent was a lair and had committed perjury and fraud. AA 175-1144

Judge Black thwarted and prevented all efforts by Lorna to obtain tax returns (AA 552-572) and subpoenaed records that were needed to do new support order to correct fraudulent support orders previous issued by Judge Black that

was in direct violation of Family Code 3552. AA 175-193 Judge Black calculated support orders on 4-2-04 and 6-4-04 based on fictitious lifestyle figures from year 1999 the $14,500 a month was actually the earned income paid by Learn to Respondent completely ignoring an additional $25,000 a month that was from Mike Roos & Company prop 10 which went through the joint checking account every month for a total of over $40,000 monthly minimum lifestyle should have been as the tax records proved $526,000 approx. per year monthly $40,000 plus whereby Judge Black completely ignored evidence that Respondent was earning millions $900,000 in 9 months and Respondent was never required to turn over current tax returns and Judge Black issued all support orders without using the income and expense statement required and or tax returns instead he accepted a profit and loss unaudited statement and testimony from Respondents accountant to calculate the new child support order. AA 875-899, AA 782-784, AA 658, AA 983, AA 1-44 The original order from 1994 was calculated on $225,000 and Lorna tried to get new order issued in 2000 at the District Attorney as Respondents income was significantly higher and or lifestyle at the time of separation tax return 1999 $527,000 was much higher but both the District Attorney and Judge Black delayed and delayed and failed to hear Lorna's motions for a new support order (AA 1325) as Respondent was already in arrearages on support

whereby the court failed to increase support accordingly. AA 586-590, AA 180 Judge Black then put off Lorna's motion for new support order and wiped clean Respondent's arrearages owed at the District Attorney with no evidence of support ever paid. AA 576-598 Judge Black finally grants an upward order on 4/2004 and then again two months later grants another small upward modification in order to quote the Hoffmeister II case as Judge Black knew he was in direct violation of Family Code 4320 as Lorna was disabled and was abused. AA 534-543 Judge Black further penalized Lorna for filing for new motion for modification of support by doing an automatic step down on her spousal support paid from $10,000 to $8,000 a month when Lorna informed the court she was disabled and filed the appropriate statement under perjury that she was not making any money. AA 530, AA 545 Lastly, Judge Black fined Lorna $750 for trying to get a restraining order renewed on Respondent when it had expired. AA 1309:9, AA 1319: 7-10

In all the dissolution proceedings Respondent never disclosed the existence of the sham Roos Trust that Respondent was a co-trustee and main asset of trust was the Commerce Casino interest 20 shares. AA 175-1144

In or about 1999 -2000 in connection with dissolution of their marriage Respondent falsely represented to the court and Lorna that his mother owned an interest in

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Commerce Casino AA 398, AA 347 Respondent falsely claimed his mother had borrowed $50,000 for C.D. to get construction loan on Kenilworth property that was never exercised . AA 821-822, AA 1066 Respondent falsely claimed his mother made loans to the community for purchase of land two lots on Kenilworth for $164,000 when the evidence proved otherwise that Jack Jefferies was the only lien holder for $100,000 and the only receipt was for a purchase price of $100,580 for two lots of land. (AA 1083 - 1085) Respondent first claimed the community paid his parents back $100,000 on bogus $164,000 loan then Respondent falsely claimed Respondents mother owned a 1/3 % interest in family home due to same bogus loan for $164,000, then Respondent falsely claimed the starker exchange bought a 25% interest in land that Respondents mother never owned the community owned (AA 823) due to bogus loan for $164,00, and then Respondent had Judge Black award him a $64,000 separate property contribution and Respondent never showed evidence that a valid loan existed no check. AA 175-193

Respondent falsely claimed his mother gifted him a $100,000 as his separate property when Respondent knew the $100, 000 came from an account at Wells Fargo that Respondent failed to disclose and Respondent was a signer and sole beneficiary as per affidavit (AA 337-338) yet Judge Black ignored the evidence and denied discovery on this asset and awarded Respondent the $100,000 because he

claimed inheritance from mother. AA 398-399 Lorna's new evidence proved Respondent failed to disclose ownership of the Roos Trust that Respondent was a co-trustee and main asset of trust was the Commerce Casino investment and Respondent testified he did not own this asset and Respondents false $100,000 separate property gift came from the very same bank account that the Commerce Casino dividend checks was deposited into at Wells Fargo that Respondent previously had testified he had no signing privileges on this bank account when Respondent knew affidavit was correct as he had signing privileges being an owner of the trust yet Respondent concealed this material fact and failed to disclose any existence of the Roos Family Trust. AA 401-407, AA 741

Respondents false portrayal of having a mother who supposedly owned an investment into Commerce Casino whereby Respondent falsely claimed she had borrowed, loaned, and gifted funds to Respondent caused great harm to Lorna and Leslie Stevenson as they have suffered damages from not obtaining a fair and equitable judgment when Lorna presented to the court evidence of a fraudulently created 1031 starker exchange whereby Lorna and Leslie's separate property never went to the home on Kenilworth and or a construction loan as the evidence proved the funds were diverted to Don Levin and Respondents mother for an undisclosed loan (AA 984-1002), forged

signatures of Lorna(AA 497-511) and Leslie Stevenson (AA 1013), copy of checks paid to the community from Leslie Reilly totally $97,000(AA 1039-1062), undisclosed bank accounts, commingled funds, fraudulent loan documents, perjury, and fraud which reflected all community, quasi-community, and separate property assets. AA 175-1144

Lorna sought discovery on the Commerce Casino interest held in mothers name but was quashed by Judge Black and was denied discovery as it would have exposed criminal behavior of Respondent and others including insurance fraud by Tom Girardi on the suspicious check of $531,561. AA 343-361

Respondent was awarded every single asset in dispute in judgment dated 6-4-04 as Respondent had claimed his mother had borrowed, gifted, and loaned money on almost every asset in the community estate without any third party documentation to support Respondents claims. AA 875-899 Respondent falsely claimed his mother owned the Commerce Casino investment and had loaned the community estate money on family home when it was Lorna's twin sister that had loaned the community money for the construction of home on Kenilworth and has never been repaid yet Judge Black awarded Respondent for his false claims of loans and gifts from mother and Respondent was

able to obtain a fraudulent Judgment dated 6-4-04 because of Respondents false claims. AA 175-1144

Judge Black refused Lorna's request to join Respondents mother and Lorna twin-sister, Leslie Stevenson Reilly to the case when they were tied to many of the substantial community assets. AA 177 Respondent's mother failed to show up for her scheduled deposition, refused to satisfy subpoenas, and never came to court when subpoenaed to do so whereby Respondents own mother refused to support Respondents false financial claims at court. Judge Black refused to sanction Respondents mother for not showing up to court, refusing to satisfy subpoenas, and for her non-appearance of a scheduled deposition. AA 369-379

Lorna did provide the court with a written trial brief outlining the embezzlement committed by Respondent and his mother whereby they used a fraudulent 1031 starker agreement to deceive and steal assets from Lorna and Leslie Stevenson to pay back Don Levin for a loan made to invest in the Commerce Casino (new evidence reveals money laundering took place on Sacramento property by Respondent and Don Levin there was no valid 1031 starker exchange (AA 985-1002) going on here as the attorney letter states correctly. AA 1081 It was actually a double sale that took place on Sacramento Respondent had already collaterized the entire property value to Don Levin with an undisclosed loan in amount of $128,050 (AA 195-202)

so Don Levin took the property and then Don Levin sold it to Charles Cunningham and had Charles Cunningham assume the existing undisclosed loan that Respondent took out on the property unbeknownst to Lorna and Leslie Stevenson) yet Judge Black refused to include the Commerce Casino was part of community estate. AA 175-193

Judge Black took Respondent at his word and ignored third party evidence which revealed a suspicious check for $531,561(AA 334-335) (Respondent claimed $531,561 was a tax-free retained earnings dividend check to his mother from Commerce Casino investment(AA 340) when Lorna alleged this $531,561 was a insurance settlement check for a car accident injury for Leslie Stevenson Reilly that Tom Girardi represented her on (AA 177)) was deposited in the undisclosed Wells Fargo account and Respondent made a false claim of separate property $100,000 gift from mother which was written off this check from the same bank account at Wells Fargo #6725-066880 that listed Respondent as a signer and sole beneficiary which was the same bank account at Wells Fargo that Commerce Casino dividend checks was deposited into and never disclosed by Respondent on his final financial in the divorce but the $100,000 gift from mother was awarded to Respondent anyways. AA 334-361 Lorna was never allowed discovery on the

$531,561 when check was deposited into undisclosed bank account that Respondent was a signer and sole beneficiary by Judge Black. AA 334-340

Also, Judge Black issued inappropriate motion to quash on Commerce Casino as Respondents mother never Responded and or appeared at court, it was Respondent who filed a false claim that Commerce Casino investment was Respondents mothers separate property. AA 343-361 Lorna recently discovered Imperial bank did satisfy the subpoena showing the maker and offset on $531,561 check but Judge Black wrongly put the subpoenaed information under seal without any request from Respondent and or third parties to do so Lorna is asking this review court to include the subpoena and findings in this appeal as Judge Black concealed material evidence that should have been considered. AA 385-390

Respondent claimed Commerce Casino and substantial dividends paid was his mothers separate property and because of this Respondent was able to park assets that rightfully belong to Lorna and Leslie Stevenson in his mother's name and Respondent was able to acquire and transfer substantial assets back to himself through the fraudulent creation and concealment of the sham Roos Family Trust concealing ill gotten gains substantial dividends paid from Commerce Casino. AA 261-300 Respondent failed to disclose the Roos Family Trust ever existed as Respondent and his

mother fraudulently created the trust and will on 6-13-96 within months of a brief separation by Lorna and Mike Roos (whereby Lorna and the girls moved out of the home because of Respondents physical and financial abuse but ended up getting back together not divorced in 1995) and within days of the suspicious check for $531,561 being deposited in the undisclosed Wells Fargo account. AA 175-1144

Also, the evidence revealed Respondent and his mother set up an Exempted trust EIN 33-6088274 in 1990 shortly after Walter Roos' death and that the fraudulent Roos Family Trust was apparently created and back dated twice once within months of Walter Roos' date of death 11-16-89 to the date 8-11-89 and Respondent and his mother anointed themselves as co-trustees of the fraudulent Roos Trust at this time and then on 6-13-96 Respondent and his mother needed to include the sisters to make the trust seem more believable as Respondent needed the fraudulent Roos family Trust to hold up to scrutiny and match his story of inheritance as the evidence revealed John Karns law firm created these fraudulent documents (The trust and will of Malissa Roos is evidence of a sham replacement of any original fraudulent documents exist, see page 7 Article v of the will of Malissa Roos dated 6-13-96. AA 78-86 The will state's "The Roos Family Living Trust "established earlier this day and bearing the same date as this will" which makes the trust null

and void. AA 87-125 Also, note in the minute notes in Malissa Roos' probate file it clearly shows no other documents existed and included in these notes it states Walter Roos' papers are incomplete as new evidence revealed Respondents father died with no will or probate. AA 432, AA 434 As Walter Roos was listed as a co-trustor and new evidence revealed Walter Roos died with no pour over will or trust the whole trust is fraud and not valid.) For Respondent as the community paid $25,000 to John Karns for the creation of the fraudulent sham Roos Family Trust and Respondent's mothers will was used to steal and embezzle assets that rightfully belong to Lorna and Leslie Stevenson. AA 409-411 Once again Mike Roos controlled all documents and manufactured, authored, and created evidence in advance of getting caught on fraud. AA 175-1144

Respondent filed a Responsive declaration to motion to set aside Judgment dated 6-4-04 on 10-28-2008 stating on item 3. Respondent read motion and falsely believed the only issues were related to family home and Respondent now claims his separate property shares from the California Commerce Club which was fraud. AA 1147 There was no separate property of Respondents on Commerce Casino as Respondent falsely claimed his mother owned the Commerce Casino as her separate property and Lorna was denied discovery on this asset. AA 343-361 Respondent failed to disclose California Commerce Club as his separate property

on his final financial dated 3-1-00. AA 317-324 Respondent was co-trustee of the Roos Family Trust and failed to disclose this trust as his separate, quasi-community, and or community property. AA 261-300 4. Respondent falsely states Petitioner and I were separated on February 20, 1999. AA 1147 Respondent and Lorna were separated on February 19th, 1999 and was stipulated by Respondent. AA 746 5. Our case went to Trial on issues related to property on 3-9-00, 3-10-00, and written trial briefs and then again on April 2, 2004 before Judge Black. AA 1147 6. On June 4, 2004, a Judgment regarding division of property after trial was filed by Respondent. AA 1147 7. Page 4 of the Judgment, lines 1 through AA 1147 8, reads as follows: "III. House on Kenilworth Ave 16. The court values the house on Kenilworth as of February 2002 was falsely inserted by Respondent. AA 1147. The court docket does not show a ruling was granted and or an appraisal was filed by Respondent with the court on the house anytime in February 2002. AA 1314, AA 1324 Respondent stated above property issues were still in dispute at trial on 4-2-04 which was after 2/2002 whereby Lorna had claimed the property was worth $1,300,000. AA 636 The statement that the court put a valuation on this asset sometime in February 2002 was false and Respondent had intentionally concealed the sale of the family home from Lorna by not disclosing his change of address

with the court against a court order and Respondent sent the children notes with the address as the Kenilworth home like Respondent was still living inthe family home up until late 2007. AA 519-522 The house was valued at $650,000 as Respondent said it was worth. AA 1147 The court has an obligation to value an asset as fairly as possible and the home was sold for $1,299,000 within 90 days of Judgment entered and Respondent failed to bring this material fact to the courts attention when Respondent knew he was selling this asset for twice the price he claimed it was worth and was financially abusing Lorna Roos and failed to get a proper appraisal done. AA 517 The court finds that the equity in the House as of this date was $220,000 this judgment was a proposed judgment and was prepared by Respondent and Lorna never noticed Respondent had inserted miss leading information as to value . AA 1147 Lorna brought the courts attention to the fact Respondent and his mother stole thousands out of the family home during the marriage using fictitious debt but Lorna was denied discovery on the family home and construction loan because Respondent claimed his mother had borrowed, loaned, and gifted money to Respondent without any third party verification. AA 175-1144 17. Respondent claimed he was entitled to a credit of $64,000 for his separate contribution to the purchase of the property. AA 1147 There was no separate property claim and or contribution for the purchase

of the two lots as Respondent did not show evidence of a check was paid for purchase other than a claimed loan from mother of $164,000 and a manufactured document by Respondent to match this claim when the evidenced proved Respondents mother did not make the loan for $164,000. AA 875-899, AA 187-188, AA 875-899 18. Accordingly, the court finds that $156,000 of Equity in the house is community property once again this document was authored by Respondent. Petitioner is entitled to one-half of the amount, or $78,000." Here, Lorna contributed hard cash of over $100,000 and another $97,000 from sister 15 years prior to this date of Judgment and was awarded peanuts on her money from the house equity. AA 1147, AA 175-1144 Judge Black knew that Leslie Reilly twin-sister of Lorna put in $97,000 and evidenced with checks presented to the court yet Judge Black failed to reimburse Lorna for $97,000. AA 1039-1062 8. Respondent sold Kenilworth residence in or about October 2004 for $1,299,000. AA 1148 Respondent falsely states it was two years and eight months after the valuation date this was false as the judgment was entered as to value on 7-4-04. AA 1148 Respondent intentionally entered a false statement that is not supported by the court record as Respondent claimed a wrong time frame as to when the court placed a value on this asset as it was valued on Judgment date of 6-4-04 for $650,000 whereby Respondent prepared Judgment knowing the house was in escrow and

removed Lorna's name from deed on 7-2-04 (AA 1309) at this time Respondent does this in order to embezzle an additional $649,000 from Lorna while concealing the sale on the home and incorrectly stating the valuation date on Judgment was fraud. AA 1147 CALIFORNIA COMMERCE CLUB AA 1148 _9. My mother, Malissa Roos, died on June 20, 2002. AA 1148 Respondent failed to inform the court that mother's estate did not settle until October of 2004 and that Respondent was issued a Gaming License on 8-4-04. AA 175-193 10. Respondent was executor of mother's probate whereby Respondent attempted to claim 20 shares of California Commerce Club was part of mothers probate to match his lies of an inheritance from mother in the divorce case. AA 253-254 Respondent claimed Part of the estate went through probate and part of the estate passed through her trust which was false. AA 1148 Respondent failed to state mothers probate estate totaled less than $20,000 and the Roos trust was fraudulently created to steal assets from Lorna during the marriage. AA 227-251 Also, Respondent was a co-trustee of The Roos Family Living Trust that owns 20 shares of California Commerce club and there was $1,500,000 of Joint tenancy accounts with his mother. AA261-300, AA315 Respondent never disclosed these assets on his final financial and failed to disclose them as separate, quasi-community, and or community property. AA 317-324 11. Respondent

falsely claimed he inherited ten (10) shares of the California Commerce Club through his mom's trust, These shares were transferred to me on or about August 4, 2004. AA 1148 Once again Respondent falsely claimed it is his mothers trust when Respondent knows it is his trust as he is a co-trustee/ owner of the Roos Family Living Trust that Respondent failed to disclose as his separate, quasi-community, community property. AA 317-324 Respondent attempted to claim only 10 shares passed through the Roos Family Living Trust when it was 20 shares that had passed through the trust as the Roos Family Living Trust was a A/B trust which meant 10 shares went straight to Respondent via the EIN # 33-6088274 Exempted Trust A upon Walter Roos' death and then the other 10 shares transferred via trust B to Respondent upon Malissa W. Roos' death. AA 261-300, AA 175-193

In Respondents Response Declaration filed on 10-28-08 Respondent failed to address the Mike Roos & Company asset and Stone & Youngberg interest that Lorna just discovered were concealed community assets whereby Respondent claimed Mike Roos & Company wasn't worth anything and Lorna was denied discovery because of this. AA 1147-1148 Lorna brought the courts attention to the fact that Respondent was not being truthful about his income as Lorna discovered Mike Roos & Company had deposits of $900,000 in a 9 month period in an undisclosed account at Bank of

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America when Respondent claimed he earned only $20,000 a month but Judge Black refused to give Lorna discovery on this asset. AA 455-491, AA 495

Respondent concealed the true value of Mike Roos & Company and never disclosed Mike Roos & Company and or Stone and Youngberg as his separate, quasi-community, and community property on his final financial dated 3-1-00. AA 316-324

Also, Respondent failed to address the undisclosed assets which included: The Roos Family Living Trust to include the 20 shares of Commerce Casino Card Club, EIN #33-6088274 Exempted Trust, Joint tenancy accounts totally $1,500,000, Iroquois property joint tenancy , prudential account joint tenancy, life insurance policy as special co-trustor, Mike Roos & Company, Stone &Youngberg, and California Commerce Club recently discovered by Lorna when she did some subpoenas on a motion for a new support order. AA 45-165, AA 175-1144

Lorna filed a case overview full and frank disclosure in support of motion for set aside of Judgment dated 6-4-04 and attorney fees on 10-28-08 with the court and served Respondent on 1-16-09 and ordered Respondent to file a response. AA 175-1144 Respondent did not send a response to Lorna and did not file a response with the court to the full and frank disclosure regarding all the over whelming evidence of fraud put forth in the case

overview in support of the set aside motion. AA 1307-1308 Also, Respondent did not file a response to motion for freezing assets and other relief when served to do so 4-17-09. AA 1260-1275

ARGUMENT

I. WHETHER THE TRIAL COURT ABUSED ITS DISCRETION TO DENY A MOTION TO SET ASIDE THE JUDGMENT DATED 6-4-04

A. The trial court erred in finding lack of proof in support of motion to set aside Judgment dated 6-4-04 as there was substantial evidence to support a finding to grant a set aside of Judgment dated 6-4-04 and Lorna had met the necessary elements for relief under Family Code sections 2120-2129

Respondent had committed perjury (Family Code 2122 (b), noncompliance with disclosure requirement (Family Code 2122(f)), and actual fraud (Family Code 2122 (a)) ;

The facts alleged in the original Order to Show Cause filed on 9-29-08 with Judge Black by Lorna and served on Respondent 10-6-08 and the full and frank disclosure case overview filed with new Judge Diaz on 10-28-08 by Lorna and served on Respondent on 1-16-09 support the facts alleged as the grounds for relief materially affected the original outcome (Family Code 2122(b); or

Appendix E

That Lorna and Leslie Stevenson would materially benefit from the granting of the relief (Family Code 2122 (b)); or That the motion was filed within the appropriate time limit (Family Code 2122)

Also, Lorna filed for attorney fees and costs under Family Code 271.

Respondent and or his attorneys never filed a response to the case overview full and frank disclosure that was served on him on 1-16-09 for the hearing on motion to set aside Judgment dated 6-4-04.

B. Failure to fully disclose all assets in a divorce proceedings is properly subject to the severe sanction of Family Code provision that remedies for the breach of the fiduciary duty by one spouse when the breach falls within the ambit of the Civil Code definition of fraud shall include but not be limited to an amount to the other spouse of 100 percent, or an amount equal to 100 percent, of the asset undisclosed or transferred in breach of the fiduciary duty.

Respondent failed to disclose all these assets in the divorce proceedings the Roos Family Living Trust that he was a co-trustee/ owner and to in include its main asset was 20 shares of Commerce Casino Club, EIN# 33-6088274 Exempted Trust, Joint tenancy accounts totaling $1,500,000 as

per mother's probate file, Iroquois property joint tenancy, prudential account joint tenancy, life insurance policies as special co-trustee, Mike Roos & Company, Stone & Youngberg interest, Charles Schwab, Bank of America account, Wells Fargo Bank account and concealed material facts like the sale of the family home for $1,299,000 in escrow at time Judgment was entered, and intentional misrepresented the facts on many assets in the marriage claiming his mother either owned the asset had borrowed, loaned, and gifted funds to Respondent in order to deprive Lorna and Leslie Stevenson their separate property, quasi-community and community property of Lorna's.

The court should have found Respondents conduct constituted fraud, oppression, and malice within the meaning of Civil Code 3294 and Family Code 1101 subdivision (h)

As the court found *In re Marriage of Rossi (2001) 90 Cal.App.4th 34* that Denise's failure to disclose the lottery winnings constituted fraud, oppression, and malice within the meaning of Civil code 3294 and Family Code 1101 subdivision (h).

Family Code 721 (b) imposes a fiduciary duty on spouses in transactions between themselves: "This confidential relationship imposes a duty of the highest good faith and fair dealing on

each spouse, and neither shall take any unfair advantage of the other. This confidential relationship is a fiduciary relationship subject to the same rights and duties of non marital business partners, as provided in Sections 15019, 15020, 15021, and 15022 of the Corporations Code,"

Family Code 1101, subdivision (h) provides: "Remedies for the breach falls with the ambit of Section 3294 of the Civil Code shall include, but not be limited to, an award to the other spouse of 100 percent, or an amount equal to 100 percent, of any asset undisclosed or transferred in breach of the fiduciary duty."

The family court properly concluded in the Rossi v Rossi case that under these circumstances, Thomas was entitled to 100 percent of the lottery winnings under family code 1101, subdivision (h) The Roos v. Roos case presents precisely the circumstance that family code 1101, (h) is intended to address.

As observed in *In re Marriage of Hokanson, (1998) 68 Cal.App.4th 993, 80*

"The clear import of the language in subdivision (h) is that an award of attorney fees is discretionary, over and above the mandatory award of the entire asset at issue." The strong language of family code 1101 (h) serves an important purpose:

full disclosure of martial assets is absolutely essential to the trial court in determining the proper dissolution of property and resolving support issues. The statutory scheme for dissolution depends on the parties' full disclosure of all assets so they may be taken into account by the trial court. A failure to make such disclosure is properly subject to the severe sanction of family code 1101, (h).

C. Respondent intentionally omitted and concealed assets and material facts from the court, Lorna and Leslie Stevenson and at a minimum Respondent should immediately forfeit the full interest 20 shares in California Commerce Club to Leslie and Lorna Stevenson and all ill gotten gains from the investment. Respondent should forfeit all the remaining undisclosed assets listed above and full profit attained from the sale of the house of $649,000 to Lorna as well. Respondent should be ordered to pay Lorna $64,000 for false claim of separate property, $100,000 falsely awarded to Respondent as gift from mother, $100,000 was falsely given to Respondents parents during marriage, $75,000 falsely given to Arnold Forde, $50,000 falsely given to John Burton, and Lorna will need a new trial and discovery too. The judgment must be reversed as well as the motion for the freezing order that Judge Diaz wrongly denied, and motion to quash that was granted in err by Judge Diaz for Respondent. The motion to set aside

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Judgment dated 6-4-04 and for attorney fees should be granted and until Respondent is criminally prosecuted the freezing order should immediately be reversed and granted to prevent further loss of income and assets that rightfully belong to Lorna and Leslie Stevenson.

II. WHETHER THE TRIAL COURT ABUSED ITS DISCRETION ON SUPPORT ORDERS

Respondent never filed for appeal on the District Attorneys case on arrearages instead Respondent got the arrearages case transferred to Judge Black whereby Judge Black issued fraudulent credits in amount of $924,000,$185,000,$20,000, and page school credit which was in direct violation of Family Code 174400 (a) and (c)

SUPPORT PAYMENTS TO ANYONE OTHER THAN DIRECTLY TO THE CUSTODIAL PARENT OR THE COURT TRUSTEE CANNOT BE CREDITED. Family Code 17400 (a) and (c) excludes credit for any support payment made to anyone other than directly to the Custodial Parent/Petitioner or the Court Trustee. In other words, pursuant to Family Code 17400, et seq., the Court must consider all support payments to any third parties as gifts. Therefore, Respondent cannot be given credit for any claimed support payments to any third party.

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As Lorna never stipulated to have the case transferred and or a reconsideration to determine arrearages Respondent failed to comply with Civil Code 1008 For the motion filed by Respondent must have been before the same judicial officer (Judge Webster at the District Attorney) not Judge Black, and must state new facts, and / or law as well as appropriate justification for omitting them earlier. Here, Respondent did not adhere to the laws, had not complied with Family Code 17526 and was rewarded by Judge Black for not obeying the laws with credits issued on third party checks retroactive for more than the original order of 11-15-94 further harming Lorna Roos and the children. Lorna Roos has never been given a copy of orders with calculations done by Judge Black on these fraudulent credits issued retroactively to 11-15-94.

RESPONDENTS REQUEST FOR RETROACTIVE MODIFICATION OF SUPPORT ARREARS SHOULD HAVE BEEN PRECLUDED AS A MATTER OF LAW

PURSUANT TO Family Code 3651 (c) , "A support order may not be modified or terminated as to an amount that accrued before the date of the filing of the notice of the motion or order to show cause to modify or terminate". This code section was further solidified *In marriage of Perez, (1995) 35 Cal.App.4th 77.* Citing Family Code 3651 (c), the court in Perez held that the lower court abused its discretion in modifying the obligor's

arrears from $5,000 to $2,000. The Perez court reasoned that the court is prohibited under the above-referenced code section to modify child support installments that accrued under a valid order. Since Respondent effectively seeks a retroactive modification of the child and spousal support installments that were already calculated from 1994's order to amount owed $924,000 with the District Attorney.

RESPONDENT IS NOT ENTITLED TO CREDITS AGAINST HIS SUPPORT OBLIGATION PRIOR TO THE DATE OF THE HEARING.

Retroactive modifications prior to the filing of the order to show cause are not supported by statue. Respondents request for a retroactive modification of child support should have been denied. See Family Code 4009; *In Marriage of Goosman (194) 26 Cal. App. 4th 838*

RESPONDENT SHOULD HAVE THE BURDEN OF PROOF WITH REGARDS TO HIS CONTENTIONS OF WHETHER HE PAID SUPPORT OR NOT but because Judge Black fraudulently gave Respondent credit retroactive to order of 11-15-94 for THIRD PARTY CHECKS now Lorna is having to appeal these credits when it should have been Respondent appealing the District Attorneys findings. During this whole process and all support orders issued Lorna was deprived of an attorney to represent her interest and the children's

as there has been no money allocated for an attorney in direct violation of Family Code 3557 and Respondent has had the separate, quasi-community, and community property of Lorna's while Lorna was left with outstanding medical and dental bills in excess of $250,000 and was financially abused by Respondent.

Family Code 3557

(a) Notwithstanding any other provision of law, absent good cause to the contrary, the court, upon (1) determining an ability to pay and (2) consideration of the respective incomes and needs of the parties in order to ensure that each party has equal access to legal representation to preserve all of the party's rights, shall ward reasonable attorney's fees to any of the following persons:

(1) A custodial parent or other person to whom payments should be made in any action to enforce any of the following:

(A) An existing order for child support.

(2) A supported spouse in an action to enforce an existing order for spousal support.

Lorna has been left completely handicapped as no one has sent her an order stating what retroactive credits were falsely granted to the order of 11-15-94 at the District Attorney when she has requested them to do so and she should not be prevented from having a fair appeal. Respondent

was fraudulently credited when Respondent never filed and refused to file a OSC for a modified support order as Respondent did not want the higher lifestyle and or current income considered in a new support order so Respondent apparently filed for reconsideration in Judge Black's courtroom a different court without a stipulation from Lorna and never appealed Judge Webster order from the District Attorney. The reconsideration of arrearages should never have been credited before or made retroactive beyond the date of Respondents motion and or reconsideration from Judge Webster and or Judge Black. Judge Black had no right to consider the arrearages without Lorna's consent and or permission and or modify the original order back to 11-15-94 and Lorna should have had money for an attorney.

Here, Judge Black gave retroactive credits to Respondent to 11-15-94 when Respondent was not current on support, had failed to file any OSC for modification of support and fought vigorously for Lorna to not get a new support order issued on current tax returns and or income whereby Lorna filed two OSC's one in August of 2000 with District Attorney but was delayed and delayed so Lorna filed again in Judge Black's court on April 24th, 2001 for a new support to be heard and was not granted a new support order by Judge Black until 4-2-2004 and Judge Black did not make that order retroactive to the date of filing for Lorna. Instead

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Judge Black issued an order on 4/2004 to do a another one two months later on 6/2004 in order to quote the Hoffmiester II case because Judge Black was not using tax returns and or income and expenses statements and Judge Black knew he was violating Family code 3552, on all support orders issued

Family Code 3552

In a proceeding involving child, family, or spousal support, no party to the proceedings may refuse to submit copies of the party's state and federal income tax returns to the court, whether individual or joint.

(a) The tax returns may be examined by the other party and are discoverable by the other party...

Judge Black refused to have Respondent turn over tax returns and or have Respondent sign for IRS tax verification when it was warranted and violated Family Code 3665(a) (b) on all support orders issued

FAMILY CODE 3665 (a) (b)

(a) In a proceeding involving child, family, or spousal support, no party to the proceeding may refuse to submit copies of the party's state and federal income tax returns to the court, whether individual or joint.

(b) The tax returns may be examined by the other party and are discoverable by

the other party. A party also may be examined by the other party as to the contents of a tax return submitted pursuant to this section.

Then Judge Black failed to sanction Respondent when Respondent refused to respond to Lorna's subpoenas and never turned over the tax returns and or subpoenaed information when it was warranted in direct violation of Family Code 3667 on all support orders issued.

Family Code 3667

Upon the subsequent filing of a motion for modification or termination of the support order by the requesting party, if the court finds that the income and expense declaration submitted by the responding party pursuant to this article was incomplete, inaccurate, or missing the prior year's federal and state income tax returns, or that the declaration was not submitted in good faith , the court may order sanctions against the responding party in the form of payment of all costs of the motion, including the filing fee and the costs of the depositions and subpoenas necessary to be utilized in order to obtain complete and accurate information....

All support orders need to be set aside under Family Code 2122 (a) (b) & (f) for actual fraud (a), perjury (b), and failure to comply with disclosure requirements (f) and corrected retroactively whereby Lorna should have discovery

and money for attorney as she was not qualified to represent her rights and the children's.

Respondent had kept Lorna in ignorance because Respondent had concealed income and income generating assets that were fraudulently diverted put into the fraudulently created trust to divert martial assets and Lorna and Leslie Stevenson's separate property to the Roos Trust that Respondent failed to disclosure in his final financial disclosure filed 3-2-00 whereby Respondent owned the trust and it was recently discovered by Lorna that Respondents mother never owned an interest in Commerce casino as falsely represented by Respondent and Lorna immediately filed with the Court within one year from discovery. Also, Respondent had filed false income and expense statements with the court whereby he failed to disclose the dividends paid on 20 shares of Commerce Casino, true income from Mike Roos & Company, true income from Stone & Youngberg, Capital Counsel and Respondent refused to turn over current tax returns and failed to disclose EIN # 33-6088274 and Respondent violated the 45 day rule on the disclosure of the final financial which was given to Lorna after first day of trial violating family Code 2105(a).

Lastly, Lorna should not be penalized because Judge Black never issued a statement of decisions on this case when Lorna requested in writing that Judge Black needed to

issue one and it was Judge Black who failed to explain the factual and legal basis for his decisions by ignoring Lorna's request Which was in direct violation of Civil Code 632 and Family Code 3654 and Rules of the Court 232 basically prevented Lorna a fair appeal by making it harder for her to prove her case. Remember Lorna has never been given money for an attorney and or had proper legal representation to preserve her rights, Leslie Stevenson's and her children's which was in direct violation of family code 2030 while Respondent had all the assets and money to hire expert attorneys while embezzling money. Sadly, Respondent has been allowed to financially abuse Lorna and her children for far too long and needs to be criminally prosecuted for not paying proper support and support on current income, for actual fraud, perjury, and failure to disclose.

CONCLUSION

This case is an absolute miscarriage of Justice and Respondent should be punished accordingly based on the forgoing and the over whelming evidence put forth in the case overview and full and frank disclose the trial court abused its discretion and should grant the motion to set aside Judgment dated 6-4-04 and attorney fees and grant discovery and assets as stated above and should grant the freezing order and other relief and the court needs to reverse the motion to quash as this further harms Lorna and Leslie Stevenson.

Appendix E

Respectfully submitted,

Dated: 9-8-09

By____*"s/"*_____
Lorna Roos

Appendix F

The Washington Times
Lobbyist paid $15K to Waters' husband
Bill would have benefited client
By Chuck Neubauer The Washington Times
9:48 p.m., Sunday, November 7, 2010

A lobbyist known as one of California's most successful power brokers while serving as a legislative leader in that state paid Rep. Maxine Waters' husband $15,000 in consulting fees at a time she was co-sponsoring legislation that would help save the real-estate finance business of one of the lobbyist's best-paying clients, records show.

Ms. Waters' husband, Sidney Williams, a former pro football player and ambassador to the Bahamas, was a paid consultant on a Los Angeles lobbying project for Mike Roos, who served with Ms. Waters in the California State Assembly. During Mr. Roos' 14-year tenure, he held the posts of majority floor leader and speaker pro tempore.

In 2007, Mr. Roos expanded his successful California lobbying business to Washington, D.C., after Democrats took control of the House and Ms. Waters became chairman of the House Financial Services housing and community opportunity subcommittee, where she played a key role in housing legislation.

Appendix F

Mr. Roos sought her assistance for a California client that specialized in homeownership and asset development.

According to federal lobbying records, Mr. Roos was paid $430,000 by the Nehemiah Corp. of America, a Sacramento, Calif.-based nonprofit that acted as a middleman to help sellers finance down payments for homebuyers to qualify for mortgages insured by the Federal Housing Administration (FHA). He lobbied members of Congress and federal agencies on behalf of the firm.

One of those lobbied was Ms. Waters, a California Democrat and key Nehemiah ally, who held a hearing on down-payment assistance in June 2007 and persuaded federal housing officials to delay for 30 days efforts to impose a ban on the program. She also co-sponsored legislation in 2008 and 2009 that would have kept Nehemiah's assistance program viable.

Nehemiah was the largest middleman on such deals nationwide, with more than a third of the business, passing on $1.5 billion from sellers to more than 320,000 homebuyers in a decade.

Ms. Waters denied any connection between Mr. Roos' payment to her husband and her help with Mr. Roos' client, Nehemiah. She said the program allowed homeownership to hundreds of thousands of low- and moderate-income families who needed assistance with the down payments.

The Internal Revenue Service ruled in 2006 that seller-funded down-payment assistance programs

were "scams," and federal housing officials tried for several years to end what they considered a dangerous practice of allowing sellers to make the required 3 percent down payments for homebuyers through a nonprofit middleman such as Nehemiah.

Three times, Ms. Waters co-sponsored legislation that Nehemiah and similar groups wanted to either stop the proposed federal ban or overturn it once it became law. The ban went into effect in October 2008, but not before Nehemiah had financed an additional $600 million in down payments for 100,000 homeowners in the 17 months after the ban was proposed.

In the first quarter of 2009, while Ms. Waters was helping Mr. Roos, her friend of 30 years, by co-sponsoring one final effort to overturn the federal ban on middlemen, her husband was on the Roos payroll as a consultant. The $15,000 payment, according to lobbying reports filed with the city of Los Angeles, was for Mr. Williams' help in trying to get a Los Angeles hotel off a designated list of Residential hotels that could not be turned easily into upscale lofts.

The federal ban on middlemen remains in effect.

Ms. Waters' legislative duties and her husband's business dealings have intersected before. She is fighting charges brought by the House ethics committee that she improperly sought federal help for a bank in which her husband was a former board

member and a current stockholder. She has denied any wrongdoing and has vowed to fight the charges in a public trial set to begin later this month.

In a statement in response to questions from The Washington Times on her involvement with Nehemiah, she said her work on programs aimed at increasing homeownership had been "consistent throughout my career."

She said that as head of the House Financial Services housing and community opportunity subcommittee, she was approached in 2007 by advocates both for and against seller-funded down-payment assistance programs to hold a hearing on the issue — before Nehemiah hired Mr. Roos.

Ms. Waters said she called the hearing because of her oversight responsibilities and because the issue had "potential implications for many people seeking homeownership."

She said it was the owners of the Los Angeles hotel who asked Mr. Roos to include her husband in discussions with the city, and he accepted the contract nearly two years after her initial involvement with the issue of down-payment assistance.

Asked in writing whether there was a conflict of interest for her husband to receive a payment from a lobbyist for whom she was seeking favorable legislation for one of the lobbyist's biggest clients, she said: "Ambassador Williams was hired for his stellar track record and knowledge of local

government. Any suggestion to the contrary is unfounded and irresponsible."

Mr. Williams, appointed by President Clinton as ambassador to the Bahamas from 1994 to 1998, did not return phone messages left for him after initially telling a reporter to call back later because he was traveling. He is president of the Williams Group, which provides consulting services to businesses.

Mr. Roos did not respond to e-mailed questions or repeated phone messages seeking comment.

Melanie Sloan, executive director of Citizens for Responsibility and Ethics in Washington (CREW), a watchdog group, said Mr. Roos' $15,000 payment to Mr. Williams created "an appearance problem."

"It doesn't violate any House rules, but members are supposed to avoid even the appearance of a conflict of interest," she said, noting that Mr. Williams should not have taken money from a lobbyist his wife was helping.

"It seems unlikely that Mrs. Waters took any action because of the payment because she had been active on the issue for several years," said Ms. Sloan, a former federal prosecutor. "It shows Mrs. Waters is a little tone-deaf on the appearance of conflict of interest."

Nehemiah's top executive, Scott Syphax, said he was not aware of Mr. Roos' payment to Mr. Williams. He said Mr. Roos was hired to strengthen the company's ties to the California congressional delegation and to

solidify its relationship with Ms. Waters. Before Mr. Roos was hired in May 2007, Mr. Syphax said, he met with Ms. Waters and urged her to hold a hearing on the issue.

Ms. Waters called a hearing on the issue in June 2007 at which Mr. Syphax said the business of providing seller-funded down-payment assistance to low- and moderate-income homebuyers was facing "extinction." A month earlier, the Department of Housing and Urban Development (HUD) published a proposed rule to ban such seller-funded assistance.

FHA had long required buyers to make at least a 3 percent down payment to qualify for low-interest financing. While FHA rules allowed relatives to provide buyers with the down payments, they barred sellers from giving the money.

In 1997, Nehemiah found a loophole around the ban by giving the down payment as a gift to the buyer and then collecting the amount as a donation plus a processing fee from the seller. Other nonprofit groups got involved and seller-financed loans mushroomed from less than about 2 percent of FHA loans in fiscal 2000 to nearly 38 percent in fiscal 2007, according to the Congressional Research Service.

At the hearing, Margaret Burns, then a top HUD official, testified that such loans had "a significant negative impact" on FHA's business. She said loans based on seller-funded gifts performed "very poorly"

and foreclosure rates were "more than twice those" of all other home-purchase loans insured by FHA.

In 2007, Ms. Waters and two other subcommittee members, Reps. Al Green, Texas Democrat, and Gary G. Miller, California Republican, sponsored an amendment to the HUD appropriations bill prohibiting the agency from spending funds to implement the rule. The amendment passed the House but not the Senate.

HUD also announced its final rule in 2007. Nehemiah responded with a lawsuit, and a federal judge delayed implementation. In 2008, the court kicked the rule back to HUD, and President Bush signed a housing bill prohibiting down-payment assistance programs. Ms. Waters, Mr. Green and Mr. Miller introduced bills to restore the program in July 2008 and January 2009, but neither became law.

Mr. Syphax, who applauded Ms. Waters' efforts in Congress as giving "people a chance to be heard," said his company's board of directors decided in March 2009 to get out of the down-payment assistance business and to stop fighting the ban.

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Supreme Court, U.S
FILED

10-707 NOV 26 2010

No. 10- OFFICE OF THE CLERK

IN THE
Supreme Court of the United States

LORNA ROOS,

Petitioner,

v.

MICHAEL Y. ROOS,

Respondent.

On Petition For Writ Of Certiorari
To The
California Court Of Appeal,
Second Appellate District, Division Three

PETITION FOR WRIT OF CERTIORARI
APPENDICES G-S

LORNA ROOS IN PRO PER
1482 East Valley Road, #305
Santa Barbara, CA 93108
(805) 845-8395

Appendix G

Court Docket

case no. BD202859

Documents Filed (Filing dates listed in descending order)

04/15/2009 Application-Ex-Parte-and Order

01/28/2009 Proof of Service
Filed by Petitioner

01/28/2009 Responsive Declaration
Filed by Petitioner

01/16/2009 Proof of Service-Form 328

10/15/2008 Responsive Declaration

10/15/2008 Objection

09/29/2008 OSC-Other
Filed by Petitioner in Pro Per

09/24/2008 Notice re: Payment of Support

08/29/2008 Order-After Hearing

04/01/2008 Objection

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04/01/2008 Miscellaneous
Filed by Respondent in Pro per

04/01/2008 Miscellaneous
Filed by Petitioner in Pro Per

02/28/2008 Proof of Service
Filed by Respondent in Pro per

02/26/2008 Motion-Quash
Filed by Respondent in Pro per

02/08/2008 Declaration
Filed by Respondent in Pro per

02/08/2008 Declaration-Income & Expense
Filed by Respondent in Pro per

11/30/2007 OSC-Declaration for Contempt (2-CONTEMPTS FILED)
Filed by Petitioner in Pro Per

07/03/2007 Declaration

07/03/2007 Objection

06/21/2007 Proof of Service-Mail
Filed by Petitioner

06/15/2007 Order-Show Cause

Courtnet/imternet/civilcasesummary/ 6/2/2009

Appendix H

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Dept: CE 83

Date	10-28-09		
Honorable	RUDOLPH DIAZ Judge	G. REGALADO	Deputy Clerk
Honorable	Judge Pro Tem	M. BAXTER	Court Assistant
J. PENA	Deputy Sheriff	B. MENDOZA CSR #3527	Reporter

8:30 a.m. BD202859

Roos, Lorna (X) — Counsel For Petitioner — In Pro Per (x)

VS

Roos, Michael (N/A) — Counsel For Respondent

Nature of Proceedings: PETITIONER'S MOTION- TO SET ASIDE JUDGMENT DATED 6-4-04 AND FOR ATTORNEY FEES (TRANSFERRED FROM DEPT. 2)

The matter is called for hearing.
The Court must read and consider the large number
Of documents submitted by petitioner.
The matter is continued in this department to 1-28-09 at 8:30 a.m.
Notice by petitioner.

DEPT CE 83

MINUTES ENTERED
10-28-09
COUNTY CLERK

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Courts ruling on evidentiary objections to declaration of Lorna Roos	10/28/08	1164
Declaration of Diane Goodman re-notice of Ex-Parte	1/14/09	1168
Declaration of Richard E. Marcus, C.P.A. in support of income and		

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Minute order Petitioner's Ex-Parte Motion for Freezing assets and other relief

4/15/09 1275

Minute order Petitioner's motion to set aside Judgment, Respondent's motion to Quash, and Petitioner's motion to freeze assets

4/27/09 1276

Minute order regarding non-stipulation

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Minute order regarding Petitioner's motion to set aside Judgment dated 6/04/04, Attorney bills, and submitted case overview full and frank

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disclosure of case In support of motion for the new Judge Rudolph Diaz

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Minute Order Respondent's Ex-Parte Motion to quash

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Minute order transfer to Central District

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Notice Designating Record on Appeal

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Notice of Motion to quash and attorney fee's filed by Diane Goodman Attorney for Respondent

1/14/09 1172

Order after hearing prepared by Jordan Metz attorney for Respondent

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Order on Respondent's Ex-parte application to shorten time

1/14/09 1170

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9/29/08 45

Petitioner's Ex-Parte Motion to Freezing Assets and other relief

4/15/09 1260

Reporter's transcript of proceedings dated April 27th, 2009 Prepared by J. Hollifield, CSR 12564

4/27/09 1277

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Respondent's objections and request to strike portions of declaration of Petitioner in support of Motion to set aside Judgment entered on July 4th, 2004 Filed by Jordan Metz for Respondent

10/28/08 1150

Responsive Declaration to OSC motion to set aside Judgment dated 6/04/04Filed by Jordan Metz for Respondent

10/28/08 1145

Responsive declaration to OSC to Motion to quash filed by Petitioner

1/28/09 1253

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Minute order regarding non-stipulation	10/27/08	170

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Minute order regarding Petitioner's motion to set aside Judgment dated 6/04/04, Attorney bills, and submitted case overview full and frank disclosure of case In support of motion for the new Judge Rudolph Diaz	10/28/08 174
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10/28/08 1150

Courts ruling on evidentiary objections to declaration of Lorna Roos

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Declaration of Diane Goodman re-notice of Ex-Parte

1/14/09 1168

Order on Respondent's Ex-parte application to shorten time

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Notice of Motion to quash and attorney fee's filed by Diane Goodman Attorney for Respondent

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Minute Order Respondent's Ex-Parte Motion to quash

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Responsive declaration to OSC to Motion to quash filed by Petitioner

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Minute order Petitioner's Ex-Parte Motion for Freezing assets and other relief

4/15/09 1275

Minute order Petitioner's motion to set aside Judgment, Respondent's motion to Quash, and Petitioner's motion to freeze assets

4/27/09 1276

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Reporter's transcript of proceedings dated April 27th, 2009 Prepared by J. Hollifield, CSR 12564

4/27/09 1277

Order after hearing prepared by Jordan Metz attorney for Respondent

4/27/09 1290

Notice of appeal 5/22/09 1292

Notice Designating Record on Appeal

6/01/09 1297

Case Summary / Docket from SCLA Not Corrected Inaccurate Information

6/02/09 1307

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA,
SECOND APPELLATE DISTRICT
- DIVISION THREE

LORNA ROOS)
) 2 " Civil No. B 216438
Appellant;)
) (Super Ct. No. BD 202859
vs.) Los Angeles County)
MICHAEL ROOS,)
Respondent.)
_____)

Appeal from Los Angeles Superior Court Honorable Rudolph Diaz, Judge Presiding Los Angeles Superior Court No. BD 202859

RESPONDENT'S BRIEF

INTRODUCTION

Respondent MICHAEL ROOS hereby files his Respondent's Brief, in response to the Opening Brief of Appellant LORNA ROOS.

JORDON METZ, Esq.
Attorney for Respondent MICHAEL ROOS

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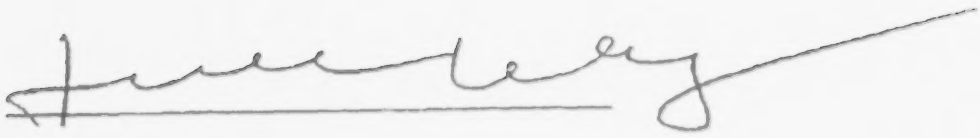

Dated:
November 25, 2009

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STATEMENT OF THE CASE AND STATEMENT OF THE FACTS

The parties involved in this case on Appeal are Appellant LORNA ROOS (the Petitioner from the trial case) and Respondent MICHAEL ROOS (also the Respondent in the trial case). For the purpose of simplicity, Respondent MICHAEL ROOS will at times refer to the Parties in the manner as does the Appellant; that is, with Appellant LORNA ROOS typically referred to as 'Lorna,' and Respondent MICHAEL ROOS typically referred to as 'Respondent.' However, when it is extremely important to distinguish the Parties by name, Appellant will be referred to as 'Lorna Roos,' or 'Ms. Roos,' and Respondent will be referred to as

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`Michael Roos' or `Mr. Roos.'

The Parties were married in 1988 and separated permanently in 1999. There were two children born of the marriage. There was a Custody Evaluation, pursuant to *Evidence Code §730,* performed by Kay Bathurst, PhD, Licensed Psychologist, Member of the Psychiatric Office, Psychiatric and Psychological Consultants, of Los Angeles, prior to trial. The report indicated, amongst other things, some fairly significant findings, such as the following:

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"The thoughts..[LORNA ROOS]...expressed to me and presented in documents are outlandish, bizarre, and scary, to say the least.... [I]t is clear that she requires professional intervention, and such is my recommendation. Lorna makes up things and has an imagination without limits.

"...[LORNA ROOS] exhibits socially inappropriate behavior and does not seem to recognize societal boundaries and her own improprieties and inconsistencies. Some examples include writing a letter directly to the Judge asking for his help, then turning around and accusing him of getting the mayor involved.... She lied outright on several occasions, for example, about [issues relating to the

children's supposed] school absences and tardiness, doctor's appointments, abuse allegations, and Michael [ROOS]. She exhibits delusional thought, has been in several car accidents where she is rear-ended, does not work outside the home, seems to have limited interests outside the girls and her sister, has many physical complaints, made the comment that she is dying, which must be devastating for the...[daughters]...to hear, and sees the[daughters] as sickly as well." *(Confidential Custody Evaluation,* presented to The Honorable Kenneth Black, by Kay Bathurst, PhD, Licensed Psychologist, Member of the Psychiatric Office, February 22, 2002, pp. 49-50.)

However, Judge Black indicated that he was not going to follow the Child Custody Evaluation. Accordingly, the issue resolved via stipulation

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between the Parties. (AA 1101.)

Following a Trial on the issues that were not reserved, that is, focusing at Trial on the property and financial issues, including Spousal Support and Child Support, in April of 2004, Judge Kenneth Black made thorough and detailed findings of fact and determinations of what would constitute proper equalization and support.

The Judgment Regarding Division of Property After Trial (Partial Judgment - All Other Issues Reserved) was filed on June 4, 2004. (AA 524.)

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Amongst the Court's findings in the Judgment were the following: (1) Division of all Community Property, which included division of retirement accounts, brokerage accounts, large amounts of Blue Chip stocks, and a membership in a country club; (2) *Marriage of Epstein* credits payable to MICHAEL ROOS, educational reimbursement credits payable to LORNA ROOS, and other credits, including reimbursements to MICHAEL ROOS for community property accounts which had been liquidated by LORNA ROOS; (3) division of equity in the family dwelling; (4) confirmation of Respondent's separate property including stock in Park`'AA' shall refer to the Appellant's Appendix, followed by the page number, which, with the exception of documents which Appellant has submitted for augmentation purposes, forms the Record on Appeal.

3.

Place Entertainment Corporation a parent corporation of the Grand Casinos and Lakes Gaming and Lake Casino; and, in addition, that LORNA ROOS had failed to prove at trial that she was entitled for credit for interest she had claimed in various other items, such as a business loan made to an associate of the Respondent's, a second trust deed, membership in The California Club, and Dodgers Baseball season tickets. (AA 525-528)

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At trial, the Court also found that LORNA ROOS had taken community property as well as some of Respondent's separate property and stored it without Mr. ROOS' consent, and in violation of Judge Black's orders. (AA 528.)

The Court ordered Respondent to make an Equalization Payment to LORNA ROOS of $185,109.00, which included a cash payment of $110,134.00, for division of Community Property, and some additional credits as outlined in the Order After Hearing. (AA 529.)

As for Child Support, Mr. ROOS was ordered to pay $6,958.00 for support of the two minor children (allocated as per Guideline Child Support). (AA 529.)

As for Spousal Support, Mr. ROOS was ordered to pay to LORNA ROOS the sum of $10,000, per month, in Spousal Support up through April of 2006, after which Spousal Support would be stepped down to an amount

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of $8,000, per month, payable until the death of either Party, the remarriage of LORNA ROOS, or further Court Order. (AA 530.)

In an Order to Show Cause brought by Ms. ROOS in

2007, and resolved after hearing in 2008, Child Support was modified to $12,496.00, per month, allocated between the two children according to Child Support Guidelines. (AA 547-550.)

In September of 2008, LORNA ROOS brought a Motion to Set Aside Judgment of June 4, 2004 (the Judgment Regarding Division of Property). More than four years after the Entry of Judgment in the matter, Ms. ROOS sought to set aside nearly every finding which led to a division of property at the time of trial on the basis of "actual fraud, perjury, mistakes, and failure to comply with disclosure requirements." (AA 50:34.[2])

Ms. ROOS' Motion failed to include a Memorandum of Points and Authorities which cited any case law (or even the applicable *Code of Civil Procedure* statute, CCP §473), though it did claim itself to be timely. (AA

'When possible, Respondent will attempt to include approximate line numbers, if it will be easier for the reviewer of the record to find statements which Respondent is referring to in his reference to the record. Because most of (then Petitioner) LORNA ROOS' pleadings are drafted defectively; that is, not on proper pleading paper, not double-spaced, and sometimes even handwritten, it is difficult if not impossible to refer to line numbers with any

precision. Nevertheless, Respondent will do his best if he feels it will aid the reviewer of the record for him to do so.

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49:9-10.)

It is unclear from the record, and Appellant's Appendix does not make it any clearer to the reviewing court, what documents, statements, and/or declarations were available to the Court as submitted evidence. However, as the Respondent's Attorney is also representing Respondent in the case on Appeal, it can be confirmed that Ms. ROOS' Case overview, consisting of a 16-page single-spaced email served as her Declaration for the Court in the Motion to Set Aside, and included an Exhibit List, consisting of either 88 or 105 exhibits (the exhibits are numbered from 1 to 87, and then inexplicably jump to 105.) (AA 175, AA 191.)

Amongst the claims made in the Motion to Set Aside Declaration (which actually was not sworn to under penalty of perjury) were those which seemed to echo claims made during the Trial in April of 2004. Some of these included new claims, however, abounding with conspiracy theories, complicity of Judge Black and others, ostensibly to shield Mr. ROOS from criminal prosecution. Some of the claims harken directly back to findings made at the time of

trial, but which Ms. ROOS still cannot accept, for whatever reason. (AA 178.)

The 'Case Overview' is rife with inflammatory statements, bold expressions of dizzying scope such as "Mike Roos is a criminal and

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apparently has control over Judge Kenneth Black," (AA 179:15.), and overflows with confidence that the reader, hence, this reviewing court, naturally agrees with her. As an example, "Let's not forget the malice and oppression generated by Respondent in this case and all the physical abuse." (AA 190:30.)

Oddly, in her Motion to Set Aside, LORNA ROOS also asked for a Statement of Decision from her April 2004 Trial, in spite of the fact that there is no evidence that she had ever asked for one at the time of trial, and in spite of the fact that the Minute Order from the Trial reflects that Respondent was ordered to prepare the Order After Hearing, referred to and quoted from above. (AA 538.)

In spite of Ms. ROOS' confidence that her Motion would be granted because of what she saw as an overwhelming amount of evidence in her favor, the Court denied the Motion to Set Aside Judgment of June 2, 2004, on April 27, 2009. (AA 1277.) Prior to her being ejected from Judge Rudolph Diaz' court, Ms. ROOS commented that she "hope[d]...you

all get indicted... It's...disgusting, fricking disgusting." (AA 1287:18-25.)

Ms. ROOS filed a timely Notice of Appeal, requesting that this Court review the denial of her Motion to Set Aside Judgment. (AA 1292.)

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II.

ARGUMENT.

PREFATORY STATEMENT REGARDING APPELLANT'S ARGUMENTS.

Appellant LORNA ROOS's Opening Brief consists of largely two main conclusory arguments:

First, that no matter what the findings were at the time of trial in 2004, or even at the time of the Motion to Set Aside in 2009, that the web of lies, which has spread to include not only the Respordent, but the District Attorney (Respondent believes Appellant means Child Support Services Division when she refers to the 'DA'), the Los Angeles Superior Court, prominent Los Angeles attorney Tom Girardi, and others, is evidence enough that all her claims are valid and should justify all the five year old orders being set aside in their entirety.

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Second, that the Trial Court, at a time not entirely clear in Appellant's Opening Brief, but which Respondent believes is at or near to the time of Trial in 2004, gave

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Respondent credits for Child Support payments made during a hearing on Child Support; that such credits should not have been given to Respondent, and that the Trial Court did so in violation of the Family Code.

Finally, although not explicitly stated by LORNA ROOS as an object of her appeal, likely because she is well past the Statute of Limitations which would apply in such cases, is Appellant's contention that Respondent MICHAEL ROOS breached disclosure requirements and violated a spouse's Fiduciary Duty as delineated through *Family Code §1101.* In her *Motion to Set Aside Judgment,* and therefore in her Appeal based upon same, Ms. ROOS largely bases her claims for failure to disclose or breach of fiduciary duty on several arguments which were raised at the time of trial, from 2002 through 2004, when the trial concluded. One new theory surfaced, what Ms. ROOS refers to as her "new evidence," regarding what Ms. ROOS alleges to be the true origins of the "Roos Trust." (AA 26.)

As a way to restart the Statute of Limitations

regarding Breach of Fiduciary Duty, Appellant recycles old arguments as "new evidence" which was "recently discovered" in her attempt to sway the reviewing court that her efforts should be rewarded today, although they were not persuasive, either in 2002, when oral testimony concluded, or in 2004, when the finder

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of fact made its rulings, with the one new theory being that the Roos Family Trust was a sham. (AA 66-74.)

But most prominent in weaving its way throughout Appellant's Opening Brief, is the position that because MICHAEL ROOS is a prominent business man, he has somehow managed to manipulate the Court and circumvent the judicial process as a result. Included in Ms. ROSS' allegations, to name just a few, is that Respondent, along with his now deceased mother, created a Family Trust which fraudulently presented itself as having been created by Respondent's parents together, that said Family Trust was a "sham" or "shell" which was used mainly to drain away assets from the Community Property of the marriage (AA 32), that Respondent purposely hid a doctor's diagnosis of cancer from the Appellant (AA 28), that Appellant was denied access to the Discovery process (AA 30), and on and on.

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It is difficult if not impossible to wade through all of the self-serving stream of consciousness style Opening Brief, to try and isolate what evidence, if any, is pointed to by LORNA ROOS' rambling accusations. Yet Respondent will try and do his best, in an effort to simplify the reviewing Court's job in this matter.

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PREFATORY STATEMENT APPELLANT'S *STATEMENT OF APPEALABILITY* LACKS ANY MENTION OF WHAT ORDERS ARE INDEED APPEALABLE. IN ADDITION, THE SUPPORT ORDERS REFERRED TO BY APPELLANT ARE FAR TOO REMOTE TO BE APPEALED, AND THE STATUTE OF LIMITATIONS BARS APPELLANT'S ABILITY TO NOW CLAIM BREACH OF FIDUCIARY DUTY, AS SHE RECYCLES OLD ARGUMENTS IN AN ATTEMPT TO CONVINCE THE REVIEWING COURT THAT THERE IS INDEED `RECENTLY DISCOVERED NEW EVIDENCE.'

Finally, Appellant's *Statement of Appealability*, such as it is, makes no mention of what orders are being appealed, makes no mention of any Standard

of Review which would serve to edify the reviewing Court as to what measurement or test should be used to review such orders, and, in fact, fails to mention when the Child Support Orders (and/or Spousal Supports Orders, as it isn't clear if either or both are being challenged) were made which are also ostensibly being appealed.

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A. The Standard of Review for a Court of Appeal's Review of a Motion to Set Aside a Judgment is That of Abuse of Discretion.

In order to reverse a lower court's denial of a *Motion to Set Aside Judgment*, the reviewing court must find there was an abuse of discretion at the trial level. Because there are different statutory schemes available for litigants at the trial level, however, the *Family Code* itself elucidates how motions to set aside judgments based on fraud, perjury, coercion, or duress should be considered by the trial court.

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Though she does not cite from it explicitly in either her *Memorandum of Points and Authorities* filed at the time of her *Motion to Set Aside Judgment* or in her Appellant's Opening Brief, Ms. ROOS' motion to set aside the judgment was apparently filed based on sections of the Family Code providing for such relief from judgment in marital dissolution cases where the division of property or the award of support "is inequitable ... due to the nondisclosure or other misconduct of one of the parties." *(Family Code §* 2120, subd. (b).) The Legislative findings and declarations promulgated in connection with these provisions (Stats. 1993, ch. 219, § 108) state that "[t]he public policy of assuring finality of judgments must be balanced against the public interest in ensuring proper

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division of marital property, in ensuring sufficient support awards, and in deterring misconduct." (§ 2120, subd. (c).) [8] To this end, section 2121, subdivision (a), provides: "In proceedings for dissolution of marriage, for nullity of marriage, or for legal separation of the parties, the court may, on any terms that may be just, relieve a spouse from a judgment, or any part or parts thereof, adjudicating support or division of property, after the six-month time limit of Section 473 of the Code of Civil Procedure

has run, based on the grounds, and within the time limits, provided in this chapter."

Section 2122 sets out the exclusive grounds and time limits for an action or motion to set aside a marital dissolution judgment. Under this section, any action or motion to set aside such a judgment must be based on actual fraud, perjury, duress, mental incapacity, or mistake. Although the party seeking to set aside a dissolution judgment must also establish that the presence of at least one of these five grounds for relief "materially affected the original outcome" and that he or she "would materially benefit from the granting of the relief" (§ 2121, subd. (b)), the fact the judgment may have been inequitable to the moving party cannot by itself serve as a basis for setting aside that judgment. As stated by section 2123: "Notwithstanding any other provision of this chapter, or any other law, a judgment may not be set aside simply because the court finds that it was inequitable when made,

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nor simply because subsequent circumstances caused the division of assets or liabilities to become inequitable, or the support to become inadequate."

For judgments that became final on or after January 1, 2002, Family Code section 2122, subdivisions (a) and (b) have been amended, and a new subdivision (f) has been added covering failure to

comply with financial disclosure requirements. (Stats. 2001, ch. 703, §§ 7, 8.) The statute which applies to the Roos' Judgment of Dissolution, entered in 2004, reads as follows:

§ 2122.

"The grounds and time limits for a motion to set aside a judgment, or any part or parts thereof, are governed by this section and shall be one of the following:

(a) Actual fraud where the defrauded party was kept in ignorance or in some other manner was fraudulently prevented from fully participating in the proceeding. An action or motion based on fraud shall be brought within one year after the date on which the complaining party either did discover, or should have discovered, the fraud.

Perjury. An action or motion based on perjury in the preliminary or final declaration of

(b) disclosure, the waiver of the final declaration of disclosure, or in the current income and expense statement shall be brought within one year after the date on which the complaining party either did discover, or should have discovered, the perjury.

(c) Duress. An action or motion based upon duress shall be brought within two years after the date of entry of judgment.

(d) Mental incapacity. An action or motion based on mental

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incapacity shall be brought within two years after the date of entry of judgment.

(e) As to stipulated or uncontested judgments or that part of a judgment stipulated to by the parties, mistake, either mutual or unilateral, whether mistake of law or mistake of fact. An action or motion based on mistake shall be brought within one year after the date of entry of judgment.

(1) Failure to comply with the disclosure requirements of Chapter 9 (commencing with Section 2100). An action or motion based on failure to comply with the disclosure requirements shall be brought within one year after the date on which the complaining party either discovered, or should have discovered, the failure to comply."

(Family Code §2122.)

Thus, in order to set aside the judgment in this case, Ms. ROOS was required to establish one of the grounds specifically enumerated in section 2122, and that she would materially benefit from the granting of relief. Both here and in the trial court, she has argued that the judgment should be set aside on grounds of the Respondent's failure to disclose assets, perjury, and actual fraud. (AA 45.)

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In her Argument, Ms. ROOS maintains that the Court erred because as the trier of fact it failed to recognize the "substantial evidence to support a finding to grant a set aside of Judgment dated 6-04-04 and... [that]...LORNA had met the necessary elements for relief under *Family Code* sections 2120-2129.) (AA 45.)

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To Meet the Abuse of Discretion Standard Upon Appellate Review, the Appellant Must Show That the Trial Court Could Not Reasonably Have Found for the Respondent, or That the Trial Court Made Erroneous Findings or Application of the Law.

Generally, where a trial court has discretionary power to decide an issue, an appellate court is not authorized to substitute its judgment of the proper decision for that of the trial judge. The trial court's exercise of discretion will not be disturbed on appeal in the absence of a clear showing of abuse, resulting in injury sufficiently grave as to amount to a manifest miscarriage of justice. *(Blank v. Kirwan* (1985) 39 Ca1.3d 311, 331; *Jessup Farms v. Baldwin* (1983) 33 Cal.3d 639, 650-651, fn. *7; San Bernardino City Unified School Dist. v . Superior Court* (1987) 190 Cal.App.3d 233, 241; *Brown v . Newby* (1940) 39 Cal.App.2d 615, 618; 9 Witkin, Cal. Procedure (4th ed. 1997) Appeal,

§ 356, pp. 404-405.) "'The appropriate test for abuse of discretion is whether the trial court exceeded the bounds of reason. When two or more inferences can reasonably be deduced from the facts, the reviewing court has no authority to substitute its decision for that of the trial court.' " *(Walker v. Superior Court* (1991) 53 Cal.3d 257, 272;
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Shamblin v. Brattain (1988) 44 Ca1.3d 474, 478-479; Eisenberg et al., Cal. Practice Guide: Civil Appeals and Writs (The Rutter Group 1995)111 8:87-8:87.1.)

The burden is on the complaining party to establish abuse of discretion. *(Blank v. Kirwan,* supra, 39 Ca1.3d at p. 331; *Denham v. Superior Court* (1970) 2 Ca1.3d 557, 566.) The showing on appeal is insufficient if it presents a state of facts which simply affords an opportunity for a difference of opinion. *(In re Marriage of Varner* (1997) 55 Ca1.App.4th 128, 138; *People v. Stewart* (1985) 171 Cal.App.3d 59, 65.)

Of course, the discretion of a trial court is not an uncontrolled power. A proper exercise of judicial discretion requires the exercise of discriminating judgment within the bounds of reason, and an absence of arbitrary determination, capricious disposition, or whimsical thinking. A court must know and consider all the material facts and legal principles essential to

an informed, intelligent, and just decision in the particular case before it. *(Carroll v. Abbott Laboratories, Inc.* (1982) 32 Cal.3d 892, 897; *People v. Giminez* (1975) 14 Cal.3d 68, 72; *In re Cortez* (1971) 6 Ca1.3d 78, 85-86; *Gossman v . Gossman* (1942) 52 Cal.App.2d 184, 195; 9 Witkin, Cal. Procedure, supra, Appeal, § 358, pp. 406-408.) "Discretion is abused in the legal sense "whenever it may be fairly said that in its exercise the court

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... contravened the uncontradicted evidence." ' [Citations.]" *(Salowitz Organization, Inc. v. Traditional Industries, Inc.* (1990) 219 Cal.App.3d 797, 806.)

2 LORNA ROOS Fails to Show an Abuse of Discretion in the Denial of her Motion to Set Aside the Judgment in the Trial Court's Decision of 2004, and Offers No Evidence of Erroneous or Invalid Decision Making by the Court, Which is the Basis of her Argument.

In her Argument, Appellant LORNA ROOS fails to establish that the Trial Court abused its discretion in any way. What she does attempt to do is relitigate the case, or have "another bite of the apple," recycling the same arguments, in the same format, which were already heard and considered by the lower court. This she cannot do at the appellate

stage, or expect a reviewing court to consider.

For example, Ms. ROOS repeatedly argues that the Court should have granted her Motion to Set Aside Judgment based on the evidence proferred, in the main areas cited hereinbelow.

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a Appellant Failed to Establish That There was Any Use of the Roos Family Trust to Drain Community Assets from Her Marriage to Respondent MICHAEL ROOS.

One of Appellant's arguments is that the Roos Family Trust, established by Respondent's parents shortly before Mr. ROOS' father passed away, was a "sham" which MICHAEL ROOS, the Respondent, fraudulently established with his mother, in order to use as a means to drain community assets from the marriage. (AOB 26[3], AA 66-74.) Appellant based her *Motion to Set Aside Judgment* largely around the theory that the Respondent falsified his father's signature on the Living Trust and "back dated" it so as to establish that it was written, not by the elder, but by the younger Mr. ROOS. In fact, this was the only argument, brought five years after the entry of Judgment in the case, which would not be barred by the Statute of Limitations as promulgated in

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Family Code §2122. (AA 51.)

However, Appellant offered nothing but speculation as to how or why this effort was made. It appears that her newfound belief was that the trust was entered into fraudulently by Respondent MICHAEL ROOS and his mother, not the elder Mrs. Roos and her husband. This theory was [3]'AOB' shall refer where necessary to Appellant's Opening Brief, following by the relevant page number.

[19]considered by the lower court at the time Appellant's *Motion to Set Aside Judgment,* and was denied by the finder of fact, as once again Appellant had failed to show sufficient evidence for yet another inflammatory and specious theory she laid before the court. (AA 176-180.) In addition, Ms. ROOS' s other repetitive and redundant theories, such as duplicitous real estate deals, straw man transactions through the use of influential intermediaries, and draining assets from the community were recycled yet again. (AA 721-725.) However, most of these theories were considered by the court at the time of trial, and so were considered yet again at the time of Petitioner's *Motion to Set Aside Judgment.*

In addition, a breach of fiduciary duty amongst spouses has a three year statute of limitations from when actual knowledge of the breach occurs.

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§ 1101.

(a) A spouse has a claim against the other spouse for any breach of the fiduciary duty that results in impairment to the claimant spouse's present undivided one-half interest in the community estate, including, but not limited to, a single transaction or a a pattern or series of transactions, which transaction or transactions have caused or will cause a detrimental impact to the claimant spouse's undivided one-half interest in the community estate.

"(d) (1) Except as provided in paragraph (2),

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any action under subdivision (a) shall be commenced within three years of the date a petitioning spouse had actual knowledge that the transaction or event for which the remedy is being sought occurred."

(Family Code §1101.)

It is therefore evident that Appellant's *Motion to Set Aside Judgment* was an attempt to raise old issues anew, hopefully to avoid conceding that her arguments could no longer be considered at the trial level, either because they had been raised and denied by the court for lack of evidence, or because the Statute of Limitations regarding Breach of Fiduciary Duty would bar their being raised at all.

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The one theory which was not floated at the time of trial, but surfaced, ostensibly because of "new evidence" in her *Motion to Set Aside Judgment,* was Appellant's contention regarding the Roos Family Trust. The sole evidence proffered by Appellant at the trial level was that the Roos Family Trust must be a sham, because in 1996, Respondent's mother, Malissa Roos, wrote a Last Will and Testament, revoking all former Wills. (AA 68.) In her Will, signed and witnessed on June 13, 1996 (AA 78), the elder Ms. Roos declares that "All inheritance and estate taxes...shall be paid out of the principal of the...ROOS FAMILY LIVING TRUST established earlier this day and bearing the same date as this Will..." (AA 84.)

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However, there was no evidence whatsoever that the now deceased Malissa Roos did not establish the Roos Family Living Trust on the same date as her Last Will and Testament. A Living Trust is not a document filed for public purview, such as a Last Will and Testament filed during Probate. Appellant's theory that the Living Trust must have been back dated and then put in place (she alleges this was done actually on two separate occasions) was something which the lower court considered during Ms. ROOS' Motion to Set Aside, and for which the lower court found Ms. ROOS' evidence lacking.

Quite clearly, the "evidence of a sham replacement of any original fraudulent trust documents" did not meet the burden necessary, nor does it rise to the level necessary at this later juncture where the burden is even higher. (AA 68.)

b Appellant LORNA ROOS Also Failed to Explain Why the Kenilworth Ave. Home Should Not have Been Valued as of the 2002 Date, or Why It Was Undervalued, Either at Trial or in her Motion to Set Aside.

Another of Appellant's major arguments in her Motion to Set Aside was that the family dwelling was undervalued, and that she was fraudulently denied her proper share of community interest in the home on

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Kenilworth Ave. According to the Judgment, the house was valued as of February 2002. In her Motion to Set Aside, and again, in her Opening Brief, Appellant opines that she feels the home was undervalued but offers no evidence to support her claim. She also claims that the subsequent sale of the home for $1,299,000, after the trial concluded was evidence, in and of itself, that the Respondent had deliberately concealed the true value of the home from her. (AA 64.) But, as mentioned above, the fact that the division may have been unequal does not itself mean that the division was fraudulent. In addition, the house was sold almost three years

after its valuation date in early 2002 at the time of trial and the date on which testimony in the case was closed. (AA 536.) The house sold late in 2004, during a period of boom times in the real estate market. (AA 517.) Although today such times seem long past, it is well settled that the period from 2001 up until late 2007 was a boom unlike that ever seen in prior years in the real estate market, perhaps fueled by over aggressive lenders and mortgage speculators, whose mortgage offerings and loan products later came to be termed "toxic assets." In any event, the evidence of the home's value was submitted to the Trial Court at the time of Trial, Appellant (then Petitioner) had the chance to object and be heard based on her own valuation of the home, and the finder of fact ruled accordingly.

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c There Was No Evidence, Either at Trial or in her Motion to Set Aside the Judgment, That Appellant LORNA ROOS Was Denied Access to the Discovery Process During Any Part of the Proceedings.

Moreover, such conjecture goes directly to Appellant's third major contention; that is, that she was denied use of the discovery process during Trial. For example, she states in her original Motion's Declaration "It is a crime that this court did not allow Petitioner discovery when the presented third

party information from subpoenas was supporting Petitioners alleged claims not Respondents. How could this court not allow proper discovery and award Respondent every single asset in dispute based on fraud, malice, and oppression." (AA 50.) However, aside from that reference, Ms. ROOS fails to state if, how or why the Trial Court "denied" her the right to discovery. But such is only conjecture and speculation, as Ms. ROOS offers no evidence as to how or why she was denied "use of the discovery process."

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d Appellant LORNA ROOS Falsely States that Respondent Failed to Respond to Her Efforts to Set Aside the Judgment, When in Fact, Respondent Was Busy Responding on Several Different Levels to the Flurry of Activity Generated by then Petitioner LORNA ROOS at the Trial Level.

Finally, Ms. ROOS' argument makes the point that Respondent's attorneys, the Law and Mediation Offices of Goodman and Metz, offered "no responses to the many crimes outlined in the case overview filed with the Court on October 28th, 2008," regarding the Motion to Set Aside, in Ms. ROOS' original Ex Parte Application attempting to freeze Respondent's assets. (AA 1270.) However, Respondent is at a loss to explain such a statement. Respondent filed a *Responsive Declaration to Order*

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to Show Cause or Notice of Motion, which was filed and made part of the Record on Appeal. (AA 1145.) Respondent also filed *Objections and Request to Strike Portions of Declaration of Petitioner LORNA ROOS in Support of Motion to Set Aside Judgment Entered on July 4, 2004,* which was also made part of the Record on Appeal. (AA 1150.) The actual rulings on the *Objections* are not part of the Record on Appeal, but if even some of the

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Objections were sustained on grounds raised by Respondent such as opinion, conclusion, speculation, lack of foundation, and relevance, nearly all if not all of then Petitioner LORNA ROOS' *Declaration* would have been stricken entirely. Moreover, Respondent also filed a *Motion to Quash* four (4) Subpoenas Duces Tecum which then Petitioner LORNA ROOS had filed in an attempt to obtain financial infoimation which she had already been denied in four (4) identical Subpoenas Duces Tecum. (AA 1172, 1176.) So Respondent was hardly silent regarding the actions of LORNA ROOS in her attempts to set the Judgment aside.

Still, even if Respondent had filed nothing in response to then Petitioner LORNA ROOS' efforts to set the Judgment aside, a lack of response is not the same as a finding of default, and the trier of fact still held a hearing on the Motion to Set Aside Judgment, during which Judge Diaz found that Ms.

ROOS had failed to meet her burden of evidence in her attempts to rewrite the Dissolution's history. (AA 1282:14-28.) Because of Ms. ROOS' obstreperous behavior during the hearing, there was little opportunity for the Court to list any specific reasons why the Motion was denied, other than to say Ms. ROOS lacked proof on which to set any portion of the Judgment aside. (AA 1283.)

/I

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3 To Conclude, Appellant LORNA ROOS Cannot

Have a Second (or Third) Bite of the Apple at the Juncture of this Appeal; She Has Been Heard, and Heard Again, and Her Current Appeal Offers no Evidence that the Trial Court Abused its Discretion in Any Way.

Finally, even at Trial, the Court was solicitous enough of then Petitioner LORNA ROOS to posit that she was sincere in her belief that she had been defrauded during the Trial. (AA 1282:21-25.) But the Court's patience was exasperated by Ms. ROOS' relentless dogma and abrasive parading of her inflammatory accusations, not only towards Mr. ROOS, but towards the Court, the legal system, and the entire judicial process. (AA 1285-1287.)

Ms. ROOS may not have yet run out of steam, but her recycling of the same arguments over and over does nothing to establish her claims, long since

exhausted, nor does it mean the standard of Judicial Review to show that there was any abuse of discretion by the Court, at any time, during the matter presented.

And so, Appellant LORNA ROOS must be denied all relief, and the lower Court's decision to deny the Motion to Set Aside Judgment, must be 27

affirmed in its entirety.

B. Appellant LORNA ROOS Fails to Identify With Any Clarity What, if Any, Support Orders Are Being Appealed; It Appears that all Orders relating to either Child Support or Spousal Support Cannot be Appealed at this Time, as to Do So Would Be Untimely; or It May Be That Appellant was Merely Adding Additional Arguments to Her Request to Reverse the Lower Court's Decision in Denying Her Motion to Set Aside the Judgment, Because She Assumed the Orders Concerning Support Made Contemporaneously with the Judgment Itself, Would be Set Aside as Well.

In Appellant's Opening Brief, Appellant LORNA ROOS offers as a second major argument that this reviewing court must decide "whether the Trial Court abused its discretion on Support Orders." (AOB 49.) However, it is unclear what specific orders are being appealed in Appellant's Opening Brief. By way of explanation, Appellant states:

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"Respondent never filed for appeal on the District Attorneys [sic] case on arrearages instead Respondent got the arrearages case transferred to Judge Black whereby Judge Black issued fraudulent credits in amount of $924,000, $185,000, $20,000, and page school credit

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which was in direct violation of Family Code 174400 (a) and (e)."

(AOB 50.)

Appellant LORNA ROOS fails to identify when such orders were indeed issued, fails to include any references to either her own Appellant's Appendix, or a Court Reporter's Transcript, and fails to specify with any clarify whatsoever what was improper regarding the orders. It appears that Ms. ROOS is claiming that Respondent was given credit for payments made to third parties, in her words "other than directly to the Custodial Parent or the Court Trustee." Appellant also states that "the Court must consider all support payments to any third parties as gifts," without any authority whatsoever. (AOB 50.)

It would appear from Appellant's argument that she is objecting yet again to the Audits which were performed over the past several years by the Child Support Services Department (CSSD). The results (or at least, their statements that they stand behind the results) of at least two of the Audits are

contained in Appellant's Appendix, in which CSSD states as follows:

"We reviewed both audits conducted in October 2006 and November 2007 with our staff attorney. It is determined that our last audit, based on the court orders filed in April 2004 and October 2007, is accurate. We mailed you the copies of the Audit Summary

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and Simple Report on January 29, 2008, for review."

(Letter from County of Los Angeles, Child Support Services Department, dated February 22, 2008.) (AA 576.) [Emphasis in original.]

So it would appear that if Appellant is referring back to matters which took place at the Trial in 2004 relating to adjudication of Child and/or Spousal Support Arrears, those matters were already investigated, followed up on, audited (at least twice) and reported on (at least three times) to the Appellant LORNA ROOS. According to the letter from CSSD, audits took place in October 2006 and November 2007, and they reviewed the audits again and reported on them on February 22, 2008. (AA 576.)

For Ms. ROOS to be raising these issues yet again appears to be yet another "bite of the apple," without anything more substantial behind it, and indicates more Appellant's dissatisfaction with the answers

she's been given, rather than any erroneous application of law or fact either at the Trial Court level or by CSSD Attorneys.

The Record also contains no evidence of any "retroactive modification" of support which is referred to repeatedly throughout the AOB. There was, as is often the case, a *temporary* modification of Spousal Support which took place on April 1, 2004, and was later modified (upwards, from $7,500, per month, to $10,000, per month) just a few weeks

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later, on April 14, 2004. (AA 542.) The April 14, 2004, Minute Order also included a prospective step-down in Spousal Support from $10,000, per month, to $8,000, per month, effective May 1, 2006. (AA 542.)

Child Support was unmodified between the *pendente lite* order of April 1, 2004, and the permanent order of April 14, 2004. (AA 542.)

Ms. ROOS objects in her AOB that Mr. ROOS received credits for half the tuition of the Page School, which the children attended. But these were not identified as a retroactive modification of support, they were part of the calculation used to reach an Equalization of the Parties' different financial bases at the time of Trial. (AA 535.) It is also true that Petitioner received certain credits, including credit for payment from the community which went towards the tuition for Mr. ROOS' older children (not children of the marriage), which were

detailed in the Judgment of April 2004. (AA526.) So decisions were made by the Trial Court which benefitted both sides, as the trier of fact must do.

For Ms. ROOS to raise these objections now, regarding Audits which were performed repeatedly in 2006, again in 2007, and reported on; for her to raise issues regarding the Equalization to the Court of Appeal after her Motion to Set Aside Judgment was already denied, is Ms. ROOS expressing her dissatisfaction with the result, not pointing to any errors in

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law, any mistakes of the Trial Court, or any abuse of discretion which took place. The abuse of discretion referred to, again and again, by Ms. ROOS is that simply the Judge at the trial level did not agree with her theories in toto, or perhaps, even in part. But Ms. ROOS cannot convince a reviewing Court to now agree with her, when the Trial Court had the full vista of evidence, witnesses, testimony, documentation, CSSD, and other facts with which it made its sound decisions.

B. **The Judge Had the Opportunity to Determine the** Credibility of the Parties and the Witnesses at Trial, And **LORNA ROOS's Written Testimony Is Riddled with** Various Conspiracy Theories, Inflammatory Language, and 'Over the Top' Pronouncements that Everyone in

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the Los Angeles Superior Court is Siding Against Her

Because of Respondent's Alleged Influence with the Court.

The appellate court should defer to the trial judge's or jury's resolution of fact issues because the Judge or Jury alone have had the benefit of observing the demeanor of witnesses and are therefore in a better position than the appellate court to assess credibility. The testimony of witnesses given on direct examination is afforded significant weight at trial in ascertaining their credibility; cross-examination does not provide the sole

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evidence relevant to the weight to be accorded their testimony. *(Elkins v. Superior Court* (2007) 41 Ca1.4th 1337, 1358.) In addition, the *Elkins* court goes on to state that:

"Oral testimony of witnesses given in the presence of the trier of fact is valued for its probative worth on the issue of credibility, because such testimony affords the trier of fact an opportunity to observe the demeanor of witnesses. [Citation.] A witness's demeanor is "part of the evidence" and is "of considerable legal consequence." (citing *People v. Adams* (1993) 19 Cal.App.4th 412, 438.)

And, further:

"[0]ne who sees, hears and observes [a witness] may be convinced of his honesty, his integrity, [and] his

reliability . . . because a great deal of that highly delicate process we call evaluating the credibility of a witness is based on .. . `intuition' "].)

(Elkins v. Superior Court, supra, citing Meiner v. Ford Motor Co. (1971) 17 Cal.App.3d 127.)

In addition, to the extent the trial court weighed conflicting evidence and assessed credibility in rejecting the purportedly new factual basis for Appellant's claims of newfound "evidence" which she hoped would justify her motion to set aside the judgment, the reviewing court must defer to the trial court's findings. *(Niko v. Foreman* (2006) 144 Cal.App.4th 344, 365.) "On review, all conflicts in the evidence are drawn in favor of the

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judgment.. [Citation.] We may not reweigh the evidence or determine credibility." *(In re Marriage of Friedman* (2002) 100 Cal.App.4th 65, 7 ; also see *In re Marriage of Meegan* (1992) 11 Cal.App.4th 156, 162 [credibility within trial court's discretion, criticized on other grounds].)

For there to be an abuse of discretion by the trial court in denying Appellant's motion to set aside the judgment of 2004, a reviewing court's review is limited to the trial court's findings of fact to determine whether they are supported by substantial evidence.

An appellant contending some particular finding is

not supported must set forth in his or her brief a summary of the material evidence upon that issue, and, if that is not done, the error is waived. *(In re Marriage of Fink* (1979) 25 Ca1.3d 877, 887.) "'It is incumbent upon appellants to state fully, with transcript references, the evidence which is claimed to be insufficient to support the findings.' [Citations.]" (Ibid.) This Appellant has failed to do. She cites no law of any kind in her argument, she simply recycles the same arguments from the lower court's proceedings.

Further, in applying the substantial evidence test, a reviewing court views the record in the light most favorable to the prevailing party and will resolve all evidentiary conflicts and indulge all reasonable inferences in support of the judgment. *(Marriage of Mix* (1975) 14 Ca1.3d 604, 614.)

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"We look to the entire record to determine whether there is substantial evidence, contradicted or uncontradicted, which will support the determination of the trial court." *(Bowers v. Bernards* (1984) 150 Cal.App.3d 870, 873-874.) "Where such evidence is present, we defer to the trial judge's factual determinations and have no power to substitute our own deductions." *(Rupf v. Yan* (2000) 85 Cal.App.4th 411, 429-430, fn. 5.) "The rule applies equally to court and jury trials and to the assessment of lay and expert testimony." *(Ortzman*

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v. Van Der Waal (1952) 114 Cal.App.2d 167, 170.)

Deference is Given to the Trial Court's Findings of Fact.

As mentioned above, the appellate court should defer to the trial judge's or jury's resolution of fact issues because the Judge alone had the benefit of observing the demeanor of witnesses and are therefore in a better position than the appellate court to assess credibility.

At the trial below, testimony was heard from the witnesses and in addition, the Parties had the opportunity to submit written testimony, likely due to the elongated nature of the proceedings. Both Parties took advantage of this opportunity and submitted additional testimony.

Even if there are conflicts which appear from Appellant at this time, and inferences which may conflict with each other when raised to the reviewing Court, under the conflicting inference rule, the appellate court must indulge all reasonable infer-

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ences that may be deduced from the facts in support of the party who prevailed in the proceedings below. *Kuhn v. Department of General Services* (1994) 22 Cal.App.4th 1627, 1632-1633. Even if the facts were admitted or uncontradicted, the appellate court will not substitute its deductions for the inferences actually or presumptively drawn by the trial court.

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Mah See v. North American Acc.Ins.Co. (1923) 190 Cal. 421 426.

After considering the findings of fact made by the trial court, the abuse of discretion standard measures whether given the established evidence, the lower court's action falls within the permissible range of options set by the legal criteria. *Dorman v. DWLC Corp.* (1995) 35 Cal.App.4th 1808, 1815.

Appellant has the burden of proof to show that the trial court abused its discretion in that there was not substantial evidence to support the decision. As discussed throughout Respondent's Brief, Appellant has failed to meet this burden because Appellant has failed to show why the trial court's decision is not within the permissible range of legal options. Conspiracy theories, allegations that the Respondent has manipulated the legal system as well as falsified testamentary documents, and even bold faced accusations that the Judge at trial was a criminal, are colorful and

arresting in terms of language, but fall flat when any sort of legal criteria is attempted to be applied to them.

It is clear that Appellant LORNA ROOS continues to be a serial accuser and a system abuser.

CONCLUSION.

For these reasons heretofore given,

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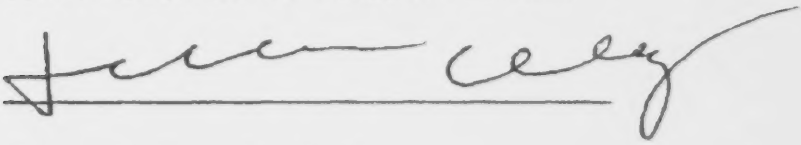
Respondent MICHAEL ROOS prays that the lower court's decision be affirmed in full.



Respectfully submitted,
Dated JORDON METZ, Esq.
Attorney for Respondent MICHAEL ROOS

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DECLARATION OF KENNETH R. NAHIGIAN.

1. I am an attorney, duly licensed to practice law in all the Courts of the State of California. I worked on the *Respondent's Brief* under the supervision of the attorney of record, Jordon Metz, Esq., in the above mentioned matter.

2. I hereby certify under penalty of perjury, pursuant to Rule 14(c)(1) of the California Rules of Court, the enclosed brief of Appellant is produced using 13-point roman type and

contains approximately 7,745, words.

KENNETH R. NAHIGIAN, Esq.
LAW OFFICES OF GOODMAN & METZ /
Attorneys or ' Respondent MICHAEL ROOS

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Appendix L

IN THE COURT OF APPEALS OF THE STATE OF CALIFORNIA SECOND APPELLATE DISTRICT, DIVISION

Lorna Roos,)	
Plaintiff and Appellant)	Appeals # B216438
v.)	Superior Court #BD202859
)	
Michael Y. Roos,)	
Respondent)	
)	

APPELLANT'S REPLY BRIEF
FILED 1-11-10

Lorna Roos In Pro Per
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ARGUMENT

I) Whether the trial court abused its discretion to deny a motion to set aside the judgment dated 6-4-04 and attorney fees Appellant believes the trial court erred in denying Appellant's motion to set aside Judgment dated 6-4-04 including all support orders and attorney fees on 4-27-09 and erred in denying a freezing order on 4-27-09 as the recently discovered new evidence revealed community, quasi-community, and separate property assets were indeed never disclosed by Respondent during the divorce and these assets still need to be adjudicated. (AA 45-165) Appellant filed to have the judgment from 6-4-04 in the divorce set aside on 9-29-08 due to the newly discovered evidence revealing Respondent's failure to disclose assets, failure to disclose his true income, fraud, perjury and misrepresentation of material facts. (AA 45-165) Respondent was able to secure a fraudulent judgment in the divorce whereby Respondent was awarded every single asset in dispute because of Respondent's false portrayal of having a rich mother. (AA 175) Appellant was never allowed discovery during the trial before both Judge Black and or Judge Diaz and was never given any funds for an attorney. (AA 175-193, AA 1275-1296)

The Judgments of 6/4/2004 and 4/27/2009 are the product of abuse of discretion and misconduct by Judge Black , Judge Diaz, Respondent's attorney's, and Respondent in that they deliberately kept Appellant broke, allocated no money for an attorney,

denied discovery, granted false credits on support orders to keep Appellant broke, allowed no enforcement on Respondent to turn over any tax records when subpoenaed to do so (AA 175-1144) (tax returns would have easily exposed the concealment of assets and material facts much sooner), created unnecessary delays, failed to hear In-Contempt charges filed by Appellant to compel discovery of tax records, issued inappropriate motions to quash, suppressed key documents during discovery to hide the true source of funds, and criminal behavior of others(AA 1275-1296) (Judge Black wrongly sealed subpoena on a asset in dispute regarding a suspicious check for $531,561 that was to be adjudicated). (AA 384-390) Judge Black and Judge Diaz made judgments that were a product of judicial misconduct and perjury by Respondent in that Respondent lied about material facts during depositions and trial. (AA 175-1144) Appellant is entitled to a trial on the grounds of newly- discovered evidence in that the facts were wrongfully withheld by the court, Respondent, and Respondent's attorney during discovery and at trial would have changed the outcome of the trial.(AA 45-165) Appellant wants the judgment from 6-4-2004 to be set aside and asks the court of appeals to grant the appropriate sanctions regarding Respondent's concealment of assets, fraud, perjury committed on all income and expense declarations regarding all support orders, perjury committed on final financial disclosure,

concealment and fraudulent portrayal of material facts, failure to adhere to the rules of the court, appellate procedure, and the laws of the state of California.(AA 45-165)

Nothing in Respondent's Reply Brief changes the conclusion that a gross miscarriage of justice occurred in the trial court as a result of Judge Diaz's & Judge Black's judicial misconduct and Respondent's failure to disclose assets, failure to disclose true income, and material facts.(RRB 1-37) Appellant notified the court immediately of the newly discovered evidence revealing Respondent had committed perjury, kept material facts concealed, and failed to disclose all assets on his final financial disclosure to the court , which should have included (AA 63-165) ; the sale of the family home (AA 76), The Roos Family Living Trust to include 20 shares of Commerce Casino Card Club (Held 10 shares in the name of Melissa Walker and 10-shares in the name of Mike Roos)(AA 87-125), EIN# 33-6088274 Exempted trust (AA 136), ownership of Commerce Casino(AA 121), income from Commerce Casino(AA 204-225), ownership of joint tenancy accounts totaling $1,500,000 in assets as stated by Respondent in Respondents mother probate file (AA 315-21), ownership Stone & Youngberg (AA 43), income from Stone & Youngberg (AA 43), Mike Roos & Company (AA 17), true income from Mike Roos & Company (AA 17), ownership Iroquois property joint tenancy acct. listed in mothers probate file,

prudential account held joint tenancy acct. listed in mothers probate file, life insurance policy held as special co-trustor never disclosed. (AA 45-165, AA 175-1144) Appellant filed a motion to have the Judgment from 6-4-04 set aside on 9-29-08. (AA 45-165)

Even if the Appellate court was to consider Respondent's new claim of statute of limitations new issue raised by Respondent, which was never raised in the lower court, and is not part of record on appeal. (RRB 1-37) Appellant's motion would still fall within the guidelines where no statute of limitations would apply to this case because Appellant filed within six months of learning and discovering of fraud, perjury, concealment of assets, and concealment of income by Respondent. (AA 45-1144)

The Court of Appeal reversed in *Rubenstein v. Rubenstein* (2000) 81 Cal.App.4th 1131, holding that the action was timely because it was brought within a year of the date that Arteena Rubenstein discovered, or should have discovered, the facts upon which her claim of fraud or perjury was based.

The set aside motion was filed within six months of discovering new evidence from subpoenaed information on 4-1-08 which revealed Respondent had concealed assets, concealed income, material facts, committed fraud, and perjury on all financial disclosures in the divorce. (AA 45-165)

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Family Code Section 2122 states: The grounds and time limits for a motion to set aside a judgment, or any part or parts thereof, are governed by this section and shall be one of the following:

(a) Actual fraud where the defrauded party was kept in ignorance or in some other manner was fraudulently prevented from fully participating in the proceedings. An action or motion based on fraud shall be brought within one year after the date on which the complaining party either did discover, or should have discovered, the fraud.

(b) Perjury. An action or motion based on perjury in the preliminary or final declaration of disclosure, the waiver of the final declaration of disclosure, or in the current income and expense statement shall be brought within one year after the date on which the complaining party either did discover, or should have discovered, the perjury.

(c) , (d), (e)

(f) Failure to comply with the disclosure requirements of Chapter 9 (commencing with Section 2100). An action or motion based on failure to comply with the disclosure requirements shall be brought within one year after the date on which the complaining party either discovered, or should have discovered, the failure to comply.

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A.) RESPONDENT DOESN'T ADHERE TO THE RULES OF THE COURT AND OR APPELLATE PROCEDURE

Respondent's Reply Brief attempts to claim Statue of Limitations must apply but Respondent never raised any issues regarding Statue of Limitations before the lower court.(AA 1145-1149, RRB 8-9) Appellant discovered new evidence on 4-1-08, which revealed Respondent's non-disclosure of assets non disclosure of his true income. (AA 45-165) Appellant immediately filed a motion to set aside judgment dated 6-4-04 on 9-29-08 including all support orders. (AA 45-165) The new evidence showed Respondent had failed to fully disclose assets, to fully disclose his true income, committed fraud, and perjury in obtaining the divorce judgment dated 6-4-04 and support orders in this divorce case. (AA 45-1144)

The most important issues of this appeal have been Respondents lack of full disclosure regarding assets, concealment of income, concealment of assets, and his fraudulent creation of the Roos Family Living Trust during the marriage in order to embezzle marital assets and ill gotten gains/ income (and embezzlement of separate property of Lorna Roos and Leslie Stevenson Reilly). (AA 175-1144) Respondent's Reply Brief fails to address his lack of disclosure of the Roos Family Living Trust including the Exempted Trust (Respondent concealed he was a

trustee at the time of the divorce) and the suspicious check for $531,561. (RRB 1-37) Respondent fails to address his fraudulent statements to the court regarding his income and expense declarations (Respondent concealed the trust income), his final financial disclosure, and misrepresentation of material facts regarding the true value of the family home that Respondent sold for $1,299,000 (within days after the Judgment was rendered) versus his fraudulent representation to the court of a value of $650,000. (RRB 1-37)

Respondent never told Appellant and or the children he was planning on selling the family home. (AA 58) Respondent had no custody of the children so Respondent was able to conceal the sale for many years by selling the home to a private trust (record of sale was not recorded until years later) (AA 514-517), by mailing the children cards with the family home address listed as his return address (AA 518-522), and by never informing the Court of his change of address, which was against a court order. (AA 175-193) For the record, there was no appraisal done on the family home because Respondent and Judge Black refused to allocate money for the appraisal, left Appellant financially destitute, refused to give Appellant any money for an attorney, and or Court costs, when the Court knew or should have known Respondent was financially abusing Appellant. (AA 175-193)

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Rather than attempt to explain his fraudulent behavior of concealing material facts like the listing and subsequent sale of the family home during the divorce trial, and on this appeal, instead, Respondent in Respondent's Reply Brief attempts to divert the attention of the Court away with some explanation regarding a supposed value in 2002 when the record does not reflect any ruling to this effect as the property value issues were still being litigated at trial on April 2nd 2004 as clearly stated by Respondent in Respondent's own response declaration filed with the Court on 10-14-08 to the set aside motion filed by Appellant on 9-29-08. (AA 1147) Now, Respondent's Reply Brief introduces new issues such as statute of limitations and other irrelevant issues that are outside the record and were never raised before the lower court. (RRB 1-37)

B.) ORDERS BEING APPEALED BY APPELLANT

Respondent's Reply Brief alleges that it is not clear what orders are being appealed. (RRB 28) Appellant is appealing all orders that were made by Judge Diaz on 4-27-09, which includes the denial of the motion to set aside Judgment dated 6-4-04 and attorney fees (Appellant is appealing all the support orders issued on the Judgment of 6-4-04 including all other support orders issued on this divorce case as Respondent committed fraud and perjury on all income and expense declarations filed with Court),

the denial of the freezing order, and the granting of the motion to quash for Respondent. (AA 1297-1326) Appellant asks the Court to retroactively modify all support orders because of Respondents non disclosure and concealment of assets that includes trust income and non disclosure on his true business income as it relates to the production of income that should have been calculated on all child support and spousal support orders as stated in Appellant's original OSC filed to set aside Judgment of 6-4-04 filed on 9-29-08 (AA 45-1144), which was wrongly denied by Judge Diaz on 4-27-09. (AA 1277-1291) As Respondent lied about being a trust beneficiary on The Roos Family Living Trust, intentionally concealed the trust & trust income, lied about his true income received on Mike Roos & Company, lied about his true income received by Stone & Youngberg, and failed to make proper financial disclosure at the time support orders were calculated in 1994 and at the time of the divorce in 2004 as was required by the disclosure statute. (AA 45-1144) Appellant asks the Court of Appeals in Appellant's Brief that all support orders be retroactively modified due to the non disclosure of income (the income from the non disclosed trusts) as it was never calculated in the child and spousal support orders. (AOB 56)

(All support orders from dates 11/15/1994 LOS ANGELES BD0202859 HISTORIC 12/05/2000 (Appellant has never seen this order and The

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Department of Children Family Services has never supplied Appellant with a copy of this order from 12-05-2000, refuses to do so, and Appellant believes it will reveal more fraud) LOS ANGELES BD0202859 HISTORIC 04/02/2004 LOS ANGELES BD0202859 HISTORIC 04/14/2004 LOS ANGELES BD0202859 HISTORIC 06/04/2004 LOS ANGELES BD0202859 HISTORIC 10/03/2007 LOS ANGELES BD0202859 HISTORIC 08/29/2008 LOS ANGELES BD0202859 ACTIVE) (AA 586-598)

The trust income, true income from Mike Roos & Company, and true income from Stone & Youngberg needs to be calculated according to Family Code Section 4058 so this means all support orders need to reflect the trust income (The Roos Family Living Trust) and or true income on Respondent's tax returns which Appellant has not received. (AA 45-1144) In addition, the Exempted trust income needs to be included EIN# 33-6088274. (AA 175) Also, all support orders need to be corrected as to the false credits given, which were done behind closed doors without Appellant's participation and or knowledge. (AA 45-1144) Appellant has not received any information regarding how, when, and what credits were given to Respondent. (AA 575-598)

Family Code Section 4058 subdivision (a) provides: "(a) The annual gross income of each parent means income from whatever source derived, except as specified in subdivision (c) and includes, but is not

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Limited to, the following:
"(1) Income such as commissions, salaries, royalties, wages, bonuses, rents, dividends, pensions, interest, trust income, annuities, workers' compensation benefits, unemployment insurance benefits, disability insurance benefits, social security benefits, and spousal support actually received from a person not a party to the proceeding to establish a child support order under this article.
(2) Income from the proprietorship of a business . . . reduced by expenditures.
(3) In the discretion of the court, employee benefits or self-employment benefits"
Appellant now knows something is not right regarding the original order of support done in 1994 as Respondent now states in Respondent' Reply Brief on page 30 that Appellant was to receive $7,500 spousal support from that order in 1994. (RRB 30) Appellant found it hard to believe that the guideline support was for only $3,200 in spousal support as Appellant was not given the right support on the order done in 1994 it should be corrected to the original date of the order as the order wasn't modified until April 1, 2004. (AA 575-598) Judge Black, Respondent's attorneys, and Respondent refused to address the fraudulent credits granted for Respondent and fraudulent support orders done on fictitious lifestyle numbers not tax returns as required by State of California Guidelines. (AA 175-191)

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Respondent committed fraud on the Court and lied to Appellant by misrepresenting the facts, committed perjury on all income and expense declarations by not reporting his true income from the concealed trusts, and never turned over any actual tax returns most likely out of fear of exposing the trust & trust income, and or any other hidden undisclosed assets and income producing assets.(AA 45-1144) Respondent concealed the existence of the Roos Family Living Trust and Exempted Trust during all divorce proceedings, support hearings, and Respondent claimed in his most recent Response filing done on 10-14-08 to the motion to set aside Judgment of 6-4-04 that the Roos Family Living Trust was his mother's trust. (AA 1145-1149) Respondent refuses to acknowledge that he is a co-trustee of the Fraudulent Roos Family Living Trust. (AA 45-165) Appellant did not discover the fraudulent trust until after Appellant found out Respondent had an interest in the Commerce Casino according to a K-1 form mailed to the Court house on 4-1-08. (AA 63-165) The Commerce Casino interest was apparently transferred via the fraudulent Roos Family Living Trust according to Respondent's mothers' probate file. (AA 45-165) Appellant found out Respondent's father died with no will and or probate on 4-15-08 and that the entire Roos Family Living Trust and Exempted Trust was fraud as Respondent's father was listed as an original trustor. (AA 431-434)

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California Probate Code Section 6322 clearly states: **The designation is ineffective unless the designators will contains provisions creating the trust or makes a disposition valid under Section 6300. As Respondent's father died with no will that would make any existence of The Roos Family Trust with the father listed as a trustor fraudulent.**

Respondent purposely wrongly restates Appellant's Appeal is from a "decision in 2004" to confuse the court when Respondent knows the appeal is from orders made by Judge Diaz on 4-27-09 as correctly stated on Respondent yellow Reply Brief cover. (RRB Cover) In Respondent's Reply Brief, Respondent states incorrectly in his table of contents false words regarding Appellant's argument to confuse the court that Appellant is attempting to appeal a judgment "decision in 2004" made by Judge Black which is not part of this appeal rather than the orders/judgments made by Judge Diaz on 4-27-09 which include the set aside motion of judgment dated 6-4-04 and attorney fees (including support orders), freezing order, and motion to quash. Judge Diaz denied the set aside motion on 4-27-09, denied the freezing order on 4-27-09, and granted Respondent's motion to quash on 4-27-09. (AA 1276-1291)

Appellant was never granted discovery and or a trial on her OSC for the set aside motion originally filed on 9-29-08. (AA 1277-1289) Respondent attempts to introduce new false and misleading claims in

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Respondent's Reply brief that an actual trial occurred before Judge Diaz that included witnesses, written testimony, conspiracy theories, inflammatory language, and Respondent's alleged influence with the court. (AA 1277-1289) No such trial occurred. Appellant was denied an actual trial on the un-adjudicated assets and there were a few hearings on the matter regarding the set aside motion and freezing order. (AA 45-1291) Furthermore, Appellant was denied basic due process, discovery, and financial resources to hire an attorney which was an abuse of discretion by Judge Diaz and Judge Black. (AA 45-1291)

Respondent falsely states that statute of limitations must apply when Respondent failed to disclose assets and income. (RRB 1-37) So how could Appellant have had proper discovery if the assets were never fully disclosed when Respondent was a trustee of the Roos Family Living trust during all divorce proceedings, support order hearings, and Respondent never disclosed the existence of the Roos Family Living Trust and or Exempted trust? (AA 45-165, AA 1145-1149)

Judge Diaz abused his discretion as there was substantial evidence to support a finding of ample proof (Undisclosed assets) to grant a set aside of Judgment dated 6-4-04, attorney fees including support orders, a freezing order, and discovery as Appellant met the necessary elements for relief under Family Code Sections 2120-2129. (AA 45-

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1144) Also, Respondent violated Family Code 1101 (h) within the ambit of Section 3294. Judge Diaz should have found Respondent's failure to disclose that he was a trustee of the Roos Family Living Trust during the marriage constituted fraud, oppression, and malice within the meaning of Civil Code 3294 and Family Code 1101(h).

C.) PORTIONS OF RESPONDENT'S REPLY BRIEF THAT ARE OUTSIDE OF THE RECORD THAT NEED TO BE STRICKEN

As Appellant's motion to strike Respondent's Reply Brief in its entirety was denied. Appellant asks the Court of Appeals to strike the portions of Respondent's Reply Brief that are outside the record on this appeal. Respondent has raised many new issues in hopes of diverting the Courts attention away from Respondent's behavior, his financial abuse; failure to disclose assets, fraud committed, perjury committed, and misrepresentation of material facts to Appellant and the Court whereby Respondent secured a fraudulent judgment back in 6-4-04. Respondent is attempting to expand the record with issues that are not part of this appeal. Appellant is going to attempt to point out these new issues below raised by Respondent that were never raised before the lower court as well.

Appellant asks the Court of Appeals to ignore/ strike any reference to a confidential child custody report as Respondent's Reply Brief has included excerpts

from this report which is not part of the record on this appeal in order to bias Appellant, was from another trial involving child custody, was not part of the record, and or trial court record before Judge Diaz and or Judge Black.

Respondent's Reply brief is in direct violation of the rules of the court as it contains impermissible and inadmissible matter drawn from outside the record under Civil Code of Procedure 435-437, specifically 436(a) (b). Additionally each expansion of the record is absent of required citations to the record and therefore should be stricken per California Rules of the Court, rule 8.204(a) (1) (c). *(City of Lincoln v. Barringer (2002) 102 Cal.App.4th 1211, 1239, fn. 16[126 Cal.Rptr. 2d 178].)* California rules of the court are clear that every document and factual argument cited on appeal must actually have been presented in the court below and every reference to a matter in the appellate record must be supported with a citation to the volume and page number of the record where the matter appears. When non-record issues, arguments, and evidence are raised in a reply brief, the appropriate remedy by the court is to strike it. As documented below, the reply brief submitted by Respondent is riddled with violations of the fundamental rules of the court and the items not part of the record should be stricken.

Importantly, what is NOT RESPONDED TO in the reply brief is the most damaging to the Respondent. The reply brief fails to address the key issues of the

appeal such as: new evidence exposing non-disclosure of financial assets by Respondent, Mike Roos; judicial misconduct by Judge Diaz and Judge Black in preventing discovery of critical evidence; fraudulent credits in the amount of $924,000 granted to Respondent, Mike Roos, from behind closed doors by Judge Black and District Attorney/Department of Children and Family Services (theft by fraudulent audits). The audits and orders that were used to grant these fraudulent retroactive credits to Mike Roos have NEVER been provided to Appellant despite numerous written requests to the Department of Children and Family Services and the District Attorney. To-date, both the District Attorney and the Department of Children and Family Services have unlawfully denied Appellant access to the records of how these fraudulent credits were granted. Judge Black improperly refused to hear the issue (of theft by audit) when presented with this information in court by Appellant. Denial of financial resources to Appellant has resulted in an unfair playing field that is biased against appellant, and has resulted in self-representation before the court. The reply brief by Respondent is silent on these key issues of the appeal.

From 5/22/09 until 11/30/09 Respondent had adequate opportunity to designate the record for this appeal as per rule 8.121. Respondent also had ample opportunity to designate an appendix and chose not to. Instead of abiding by the rules of the

court, Respondent now chooses to use his response brief as an attempt to expand the record with issues, arguments, and new evidence that ARE NOT part of the record. This behavior by Respondent is a clear violation of the rules of the court. "If it is not in the record, it did not happen". (*Protect Our Water v. County of Merced, 110 Cal. App. 4th 362,364 (2003).)*

Respondent's brief unlawfully attempts to expand the record with new issues, arguments, and evidence that are not part of the record. Respondent had the opportunity in the lower court (in front of Judge Diaz) to respond to the issues, arguments, and evidence presented to the court by Appellant on 10/28/08 (and eventually served on an evasive Respondent on 1/16/09). Despite being granted several months to respond (until 4/27/09), Respondent did not file ANY OBJECTIONS OR DENIAL TO THE CHARGES, nor raise ANY new issues to the court of judge Diaz (such as his newfound desire to: object to the new evidence, claim statute of limitations on support orders and fiduciary duty, allege re-litigating the decision, allege recycling old arguments, and attempt to explain concealment of material facts on the sale of the Kenilworth Avenue Family home). One can only speculate regarding the motives of Mike Roos for failing to respond to the new evidence and serious charges of fraud, embezzlement, and concealment of assets. Appellant believes that Respondent deliberately

failed to reply to these charges out of his desire to minimize evidence and testimony that would only further incriminate himself. Regardless of why Respondent failed to respond, this reply brief cannot now be hijacked and used to raise NEW issues, arguments, and objections to improperly expand the record. Such behavior is a flagrant abuse of the rules and procedures of the court. "A party may not by–pass the fact finding process of the lower court and introduce new facts in its brief on appeal." *United States v. Allen, 522 F.2d 1229, 1235 (6th Cir. 1975)* (holding that an appellate court cannot consider material in a brief that is not part of the record).

In his statement of facts Respondent presents that child custody was decided by stipulation in March of 2000. This portrayal by Respondent is fraudulent and misleads the court about significant facts on child custody. This portrayal is unsupported by any valid factual evidence. Child custody was decided in April 23rd 2004, and it DID NOT occur by stipulation. Any investigation into the true facts and evidence will reveal that Respondent lost custody of his children in a backroom deal with Judge Black, the D.A., and L.A.P.D., whereby Mr. Mike Roos was forced with the hard choice to either give up all rights to his children or face prosecution for child abuse. The catalyst for this backroom deal was a 911 call from an independent party regarding allegations of child abuse by Mr. Mike Roos involving his youngest child while under his sole care. A

subsequent police report on the incident included photos of the abused child. Department of Child Support Services was also involved and wanted Mr. Mike Roos criminally charged. Faced with potential jail time, Mr. Mike Roos unilaterally relinquished all parental rights to his two children at an emergency ex-parte hearing.

The brief must set forth all arguable issues, and contain citations to the appellate record as well as appropriate authority. (*People v. Barton (1978) 21 Cal. 3d 513, 519; Harris, supra 19 Cal. App. 4th at p. 714.)*

The Violations of the rules of the court are as follows (See RRB 1-37):

A. Enlarging the record through the introduction of non-record evidence and New Issues and New Arguments never raised in the lower court :

1. Page ii & Page 9, 11 introduces new *statute of limitations claim on fraudulent support orders*
2. Page ii, iii, & Page 9, 20,21 raises new *statute of limitations claim on non-disclosure of assets*
3. Page ii & Page 9, 11,18,21,27 introduces new allegation of "*recycles old arguments*"
4. Page ii & Page 9, 11, 21 introduces new *questions on the discovery of new evidence* on concealment of assets by Respondent that he failed to disclose in the 2004 trial (such as the fraudulent Roos Family Living Trust that he owned as a co-trust or)

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5. Page ii & Page 10, 20 introduces new allegation *community drained assets from Roos Family trust*

6. Page iii Page 22, 23 introduces new issues *regarding a value of Kenilworth in 2002 ???*

7. Page iii Page 24, introduces allegations that *discovery was not denied*

8. Page iii Page 25 introduces new information on why *Respondent didn't respond to set aside motion and or case over view*

9. Page iii, Page 18, 27 introduces *a new cross appeal claim* that Appellant has no right to be heard on appeal and there was no abuse of discretion

10. Page iii,20,32,33,34,35,36,&37 introduces new (false and misleading) information that an actual trial occurred before judge Diaz that included witnesses, written testimony, conspiracy theories, inflammatory language, and Respondent's alleged influence with the court. No such trial occurred.

B. Missing Citations:

Pages:

2,3,8,9,10,11,12,13,14,18,19,20,21,22,23,24,25, 26,27,28,29,30,31,32,33,

34,35, 36,&37

C. False Citations:

Pages:

3,6,7,9,10,15,19,20,21,22,23,24,25,26,27,29,30,&31

D. Misrepresenting the Facts:

1. Page 2 stipulation/child custody completely false

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2. Page 32-37 no trial, no testimony, no witnesses in the court of Judge Diaz
3. Page 4,5, falsely claims Appellant got Guideline support orders when no tax returns were given and Respondent concealed assets and committed perjury on every single income and expense statement
4. Page ii, 18 falsely reframes Appellants appeal to be an appeal on a "Decision of 2004" rather than the 4/27/09 denial by Judge Diaz on set aside motion of Judgment dated 6/4/04.

E. Confidential Inadmissible Evidence that requires prior judicial authorization:
Page 1 & 2 Kay Bathurst report
F. Introduction of disrespectful, scandalous, and abusive language:
Page 1,2,6,7,8,10,26,27,31,32,36,& 37

Respondent includes a confidential report (Kay Bathurst report) on the very first page of his brief and second page, which is inadmissible because it not part of the record AND because it is Confidential. Any Confidential information requires judicial notice. This has not occurred. Additionally, the fact that the report was paid for by Respondent, is disrespectful and scandalous to Appellant, and is intended to bias the court makes the magnitude of the infraction even more serious. Appellant requests

appropriate sanctions for the unethical behavior of Mr. Kenneth Nehagian and Mr. Jordan Metz.

"An attorney who files a brief which contains disrespectful, scandalous, or abusive language directed against courts, officials, or litigants violates a statue requiring attorneys to maintain the respect due to courts and judicial officers, commits a reprehensible breach of duty, and is guilty of contempt of the appellate court." (*4 Cal. Jur.2d 322, Appeal and Error, 486)* Respondent's attorney Mr. Jordan Metz knowingly commits the violation stated above over ten different times (See RRB page 1,2,6,7,8,10,26,27,31,32,36,& 37).

Respondent's Reply brief falsely states that Appellant never requested a statement of decisions on the Judgment entered by Judge Black back in 6-4-04. (AA 733-734) Appellant did ask for a statement of decisions prior to the judgment being entered by Judge Black back in 6-4-04.(AA 734) Appellant was denied a statement of decisions by Judge Black back in 2004 and was denied access to the court records on the divorce file ever since. (AA 175-191) Appellant was led to believe by Art, the court clerk that Judge Black would issue Appellant a statement of decisions in writing as Appellant had requested a statement of decisions be issued in her further trial brief. (AA 734) Art claimed over and over to Appellant that Judge Black would be preparing a statement of decisions on the divorce case judgment dated 6-4-04 even though it had been several years all the way up until the

case was transferred to Judge Diaz, Art was representing that a statement of decisions would be forth coming soon. (AA 175-193) Appellant is a layman and has now realized Judge Black had no intention of adhering to the rules of the Court according to Art, that Judge Black was never going to supply a statement of decisions as this would prevent an appeal from being done on his rulings on Judgment from 6-4-04, and was trying to get the case beyond the statute of limitations to avoid criminal prosecution for his own criminal behavior of judicial misconduct. (AA 175-193) Respondent incorrectly states Appellant is appealing the decision made by Judge Black from 6-4-04 when THIS APPEAL CLEARLY STATES APPELLANT IS APPEALING ORDERS MADE BY JUDGE DIAZ ON 4-27-09. (RRB 1-37)

Respondent falsely states the Court found Appellant was in possession of community property as well as Respondent's separate property and stored it without Respondent's consent. (RRB 4) Respondent fraudulently slipped his wording in a proposed judgment that Respondent filed with the court. (AA 528) This is absurd as Respondent was awarded the family home with all the contents at an ex-parte hearing and Respondent was able to keep all the community property, Appellant's & Appellant's twin sisters' personal belongings.(AA 175-190)

After a severe car accident left the twins disabled with many fractures (whereby the twins were

diagnosed with additional complications caused by the fractures sustained in the car accident, when they were suffering from an underling condition which was discovered at this time "Addison's Disease"), the twins were forced to close their business "Tiara Headbands" and move their business belongings, some of Appellant's & Appellant's twin sister's personal belongings to a storage facility owned by Appellant's mother. (AA 175-193) Respondent knew that Appellant had an unpaid storage bill as he was not paying Court ordered support, and wanted to keep all of Appellant's & Appellant's twin sister's belongings from their business and personal items too. (AA 175-193) Judge Black granted Respondent access with a court order to the storage facility that belonged to Appellant's mother, when Appellant & Appellant's twin sister were unable to be present because of their physical disabilities sustained in the car accident. (AA 175-193) Respondent was allowed to steal anything of value; all of the Tiara Headbands essentials to stay in business, Eleanor Lines Designs, and Appellant's & Appellant's twin sister's personal belongings. (AA 55- 61)

D.) MOTION TO AUGMENT RECORD ON APPEAL FILED BY APPELLANT ON 9-18-09 TO INCLUDE SEALED SUBPOENA INFORMATION REGARDING AN ASSET THAT WAS IN DISPUTE ON THE DIVORCE (THIS SUBPOENA BELONGS TO APPELLANT AND REVEALS THE TRUE

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SOURCE OF FUNDS ON THE $531,561) THE SUBPOENAED INFORMATION NEEDS TO BE UNSEALED AND INCLUDED IN THIS APPEAL FOR APPELLANT TO HAVE A FULL AND FAIR APPEAL AS THIS ASSET WAS NEVER PROPERLY ADJUDICATED

The improperly sealed subpoena in the divorce case and the motion to Augment done on 9-18-09 needs to be included in the appeals case showing the marker and off set of the $531,561, as new evidence proves the money is indeed part of the community estate and or insurance fraud, and was wrongly put under seal by Judge Black. (AA 384-390) The information from the sealed subpoena needs to be included on this appeal for Appellant to have a full and fair appeal. (AA 384-390) Appellant is asking the Court of Appeal to release the information as it belongs to Appellant and should never have been put under seal by Judge Black, when there was no Motion and or application filed to seal these records and Respondent never objected to the subpoena being satisfied and or put on the record. (AA 175-190) In addition, Respondent never objected to our motion to augment either filed on 9-18-09. (see appellate record) The disputed $531,561 was an asset that needed to be adjudicated in the divorce and still does. (AA 334-341) Appellant is asking the Court of Appeals to unseal these records as addressed in Rule 2.550 (c)-(e). Appellant has a right to know the true source of funds as this asset was never adjudicated

and is a community asset and or insurance fraud settlement check. (AA 175-190)

ARGUMENT

II) Whether the trial court abused its discretion on support orders? Appellant believes the trial court erred in not hearing Appellants set aside motion regarding the false credits granted to Respondent on support orders. Appellant has never received any payments from Respondent on the arrearages case amount owed in the amount of $924,000 plus interest and Respondent has been given additional false credits on current support orders through fraudulent audits conducted by The Department of Children and Family Services. (AA 175-193, AA 575-598) Appellant has been told by the Department of Children and Family Services that there was credits given but Appellant has never received any of these orders granting Respondent credit. (AA 575-598) The Court has allowed Respondent to continue to embezzle more money from Appellant through these audits at the Department of Children and Family Services. (AA 575-598) Respondent has had no repercussions at the Court level for this type of financial abuse and fraud. (AA 175-193) Respondent has learned how to successfully embezzle money from Appellant through these audits at the Department of Children and Family Service because Respondent is never held accountable for his criminal and devious behavior. (AA 575-598) The Department of Children and

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Family Services never informs Appellant when an audit is being conducted, never allows Appellant to participate in these audits, never has sent any information, and or orders determining the calculations on how these false credits were given to Respondent. (AA 175-193, AA 575-598)

Also, the trial court erred in denying the motion to set aside Judgment 6-4-04 and attorney fees, which included all support orders in the Judgment dated 6-4-04. (AA 1276-1291) Appellant was entitled to a trial and retroactive modification on all support orders because Respondent did conceal assets, did conceal income, did commit fraud on all financial declarations, did commit perjury on all income and expense declarations. (AA 45-165) Respondent has violated his statutory duty of disclosure under Section 2100 et seq. in the divorce proceedings (AA 45-193)

Respondent has shown no proof of payment other than to state in Respondent's Reply Brief the audits have been done correctly by the Department of Children and Family Services. (RRB 1-37) Respondent has learned how to steal money through these audits at the Department of Children Family Services, whereby he has someone manipulate the records to indicate payments have been received when Respondent has not paid the Court ordered support. (AA 575-598) Appellant has been prevented from participating in these audits and has not

received any information regarding how these credits have been calculated by the Department of Children Family Services, which is against the law. (AA 575-598) Respondent has just orchestrated another audit during this appeals process with the Department of Children and Family Services behind Appellant's back, whereby Appellant was unaware this was happening, was not allowed to participate, and was just shorted another $40,000 in child and spousal support payments. (AA 575-598) Respondent has paid no support for the month of November of $20,810 because of these new false credits given to Respondent by Department of Children Family Services in November 2009. (AA 575-598) Appellant cannot absorb these false credits given through audits at the Department of Children and Family Services anymore and if the payment for November's support of $20,810 is not paid before January 15th, 2010, Caroline Roos will be forced to move home from college and forced to withdraw from the University for non- payment of tuition and dorm dues owed. (AA 575- 598)

A.) ABUSE OF DISCRETION

Judge Diaz claimed Appellant lacked the proof to warrant a motion to set aside the Judgment dated 6-4-04, grant a freezing order, denied discovery, and denied financial resources for an attorney. (AA 1277-1289) Appellant believes Judge Diaz has been quite cruel as Respondent has been allowed to continue to abuse Appellant, the children, and the entire judicial

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system because Respondent wants to keep embezzled assets that rightfully belong to Appellant & Appellant's twin-sister, and not pay Court ordered support. (AA 45-1144) Respondent submitted a fraudulent final financial on 3-2-00 whereby he failed to fully disclose assets, income, and material facts during all the divorce proceedings and on this final financial declaration. (AA 316-324) (Respondent was a co-trustee on the concealed fraudulent Roos Family Living Trust (AA 45-165) and Respondent kept another secret that he was selling the family home for double the amount he claimed it was worth).(AA 516-517) Appellant doesn't know how much more proof would be needed to set aside the fraudulent judgment as Respondent did use his mother as a conduit to embezzle Community, Quasi-Community, and or Separate property assets out of the marriage with the creation of the fraudulent Roos Family Living Trust, false portrayal of rich mother (Respondents mother and now Respondent's sister, Melissa Walker, have embezzled and collected ill gotten gains from the Commerce Casino investment. (AA 175-193) The Commerce Casino investment rightfully belongs to Appellant & Appellant's twin-sister as Respondent embezzled the money for the investment with money stolen by Respondent, Respondent's mother, and Don Levin through money laundering on the Sacramento rental house investment purchase and sale as Appellant just discovered the undisclosed loan that was put on the

Sacramento property without the permission of Lorna Roos and or Leslie Stevenson Reilly). (AA 194-202)

Judge Diaz refused to set aside the judgment by dividing the community property under section 2122, and the trial court's denial is subject to reversal on this appeal as Judge Diaz did not comply with Section 2122 and has abused his discretion in denying Appellant's motion to set aside Judgment dated 6-4-04 including all support orders, attorney fees, freezing order on the un-adjudicated assets, discovery, appropriate sanctions, and a trial. (*In re Marriage of Varner (1997) 55 Cal. App. 4th 128, 138.)*

Generally, the grant or denial of a new trial is purely within the discretion of the trial court and will not be reversed except upon a showing abuse of discretion. *Whittington v. New Jersey Zinc Co., 775 F. 2d 698 6th Cir.1985); Gordon v. Norman, 788 F. 2d 1194 (6th Cir.1986).* Abuse of discretion is defined as a definite and firm conviction that the trial court committed a clear error of judgment which is the case here.

CONCLUSION

Respondent's financial abuse needs to be stopped as it will now come at a great cost to Caroline Roos. (AA 45-1144) Appellant's credit has been ruined because of Respondent's failure to pay court ordered support and because the false credits granted by The Department of Children and Family Services have caused Appellant to not receive current monthly

support. (AA 575-598) Appellant wants Respondent prosecuted to the full extent of the law. (AA 175-193) Appellant wants the person and or persons giving false credits at the Department of Children Family Services prosecuted to the full extent of the law for manipulating the system by granting Respondent false credits through audits when Appellant has not received the court ordered support. (AA 575-598) It is no overstatement to say that as result of Respondent's power of influence, Respondent has been able to continue his criminal and abusive behavior both physically & financially for years. Any other person committing these same crimes would already be in jail. (AA 175-193)

In Respondent's Reply brief, Respondent does nothing to address his lack of financial disclosure on assets (non-disclosure of being a trustee of the fraudulent Roos Family Living Trust) and concealment of material facts. (RRB 1-37) As Respondent secured fraudulent judgments, fraudulent credits, and fraudulent support orders in this divorce case, Appellant is asking the Court of Appeals to grant the motion to set aside Judgment dated 6-4-04 including all support orders, grant the freezing order, attorney fees, appropriate sanctions, discovery, and a trial. (AOB 57-58)

Appellant would like Respondent to be immediately ordered by the Court of Appeals to forfeit 100% of the non- disclosed assets as a sanction under Section 1101, subdivision (h) as Respondents breach of

fiduciary duty falls within the ambit of Section 3294 this is the appropriate remedy for Respondents lack of disclosure and fraudulent concealment of assets from Appellant to include; Sale proceeds from the sale of the family home $1,299,000 - $650,000= $649,000 (AA 516-517), all assets in the fraudulent Roos Family Living Trust (AA 260-300), all assets in the Exempted Trust EIN # 33-6088274 (AA 260-300) , ownership of Commerce Casino to include at least 20 shares: 10 shares held in Melissa Roos' Walker's name (Respondent's sister), 10 shares held in Mike Roos' name, and all ill gotten gains from this investment (the interests were transferred via the Fraudulent Roos Family Living Trust (AA 203-254)), ownership of joint tenancy accounts never disclosed by Respondent yet held by Respondent as stated in Respondents' mother's probate file clearly states it totals at least $1,500,000 worth of assets (AA 314-315), ownership of Stone & Youngberg L.L.C. interest (AA 43) , ownership in Mike Roos & Company(AA 17), ownership Iroquois property joint tenancy acct. listed in mothers probate file (AA 301-306), prudential account held joint tenancy acct. listed in mothers probate file(AA 307-313), life insurance policy held as special co-trustor never disclosed. (AA 45-165, AA 175-1144). Respondent should be ordered to return all of Appellant's & Appellant's twin-sister's personal belongings.

In addition, Respondent should be ordered to pay Appellant for false credits given to Respondent by

Appendix L

Judge Black as Respondent did use his mother and friends as conduits to steal money out of the marriage with bogus loans and a false portrayal of having a rich mother (When Appellant has just learned the only income his mother received was from social security (AA 1142-1144) : $64,000 for a false claim of separate property (AA 55-61), $100,000 falsely awarded to Respondent as a separate property claim as a gift from his mother (AA 362-367) , $100,000 was falsely given to Respondents parents during the marriage, $75,000 was falsely given to Arnold Forde (AA 496-508) , $50,000 was falsely given to John Burton (AA 510-511). Respondent fraudulently claimed he purchased a $100,000 worth of assets from a bogus gift from his mother and Judge Black falsely awarded Respondent these following assets that were in dispute as his separate property and now they need to be adjudicated as they are community property; AKT Development $43,000, Aames Financial corp. $1,509, Indymac Mortgage holdings $9,313, Intel Corp. $19,500, Lakes Gaming $1,140, Park Place Entertainment $3,750, Miscellaneous securities at Charles Schwab acct 7595-7161 $34,000, Savings account at Tokai Bank #092105830 $6,296, and checking acct. at Tokai Bank $4,245. (AA 324)

Lastly, Appellant will need money financial resources to hire an attorney and forensic accountant. Appellant will also need discovery and a trial to receive a full and fair Judgment regarding

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the lack of full disclosure of all assets by Respondent in order to access the true community, quasi-Community, and separate property assets of this marriage.

Respectfully submitted,

"s/"

Dated
Lorna Roos In Pro Per

"s/"

By Lorna Roos

Appendix M

Lorna Roos
1482 East Valley Rd. #305
Santa Barbara, CA. 93108
(805) 845-8395
In Pro Per

COURT OF APPEAL, SECOND APPELLATE DISTRICT
DIVISION THREE
STATE OF CALIFORNIA

Lorna Roos	) Appeal No. B216438
Petitioner and Appellant	) Superior No. BD202859
v.	) MOTION TO
Michael Y. Roos	) AUGMENT RECORD
Respondent	) ON APPEAL
	(DOCUMENT REQUESTED)
_____	)

Pursuant to Rule 8.155 (a) of the California Rules of Court, I, Lorna Roos, request augmentation of the record on appeal to include a document in this case that was not included in the Appellants Appendix. The document is:

Sealed Subpoena from Imperial Bank at the Superior Court house that was put under seal by Judge Kenneth Black SEE page 390 of Appellants Appendix showing Imperial Bank did indeed satisfy subpoena showing marker and off set of the $531,561.

The reason I am requesting the item is:

Appendix M

The sealed subpoena that was satisfied by Imperial Bank to the Court house shows the maker and off-set of the $531,561 that was in dispute and was not included in the martial estate whereby new evidence proves the money is indeed part of the community estate and or insurance fraud and was wrongly put under seal by Judge Black as no one filed a motion to have this information sealed and Respondent never objected to the subpoena being satisfied and or put on the record. I declare under penalty of perjury that the foregoing is true and correct. Executed at Los Angeles, this 15th day of September 2009

"s/"

Lorna Roos In Pro Per

MEMORANDUM OF POINTS AND AUTHORITIES
AUGMENTATION SHOULD BE ORDERED
TO ALLOW APPELLANT TO RECEIVE
FULL AND FAIR APPELLATE REVIEW

Rule 8.155(a) of California Rules of Court permits the augmentation of the appellate record and specifically under Rule 8.155(a) (1) allows a document not designated under Rule 8.130 and or 8.124 to be augmented and permitted. It is well established that this rule is to be construed liberally. (*People v. Brooks (1980) 26 Cal.3d 471, 484.*)

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The need for augmentation here is compelling. Appellant believes the trial court erred in sealing a subpoena that Appellant found out was satisfied to the Court from Imperial Bank showing the offset and marker of a suspicious check for $531,561 when Respondent falsely claimed a $100,000 cashier's check was a gift that came from the suspicious check and therefore was his separate party whereby the trial court granted a Judgment based on its own determination of the credibility of conflicting declarations that has now become an issue as the new evidence proves Respondent lied about the $100,000 gift as Respondent never disclosed he was a co-trustee of The Roos Family Living Trust when Respondent owned the $100,000 and the $531,561 should have been included in the martial estate and Respondent fraudulently created The Roos Family Living Trust in the marriage to steal and embezzle assets that rightfully belong to Lorna Stevenson Roos and Leslie Stevenson Reilly including an alleged insurance settlement check for $531,561. The issue can only be reviewed on appeal if the sealed subpoena information is part of the appellate record and can be viewed by the reviewing court as there appears to have been judicial misconduct by Judge Black over this matter.

Also, Appellant did designate Respondents testimony page 880 Appellants Appendix Volume 3 but when Kinko's went to copy the declaration page 6 was missing, Appellant would like everyone to

receive a copy of page 6 so Appellant has made a copy that inadvertently did not copied in the original Appellants Appendix page 880.

Not only is augmentation necessary, it will not prejudice any party and 1.) The record should be unsealed as no one objected to the subpoena in the first place; Judge Kenneth Black wrongly sealed the Imperial Bank subpoena when there was no motion filed to do so and 2.) The person at Kinko's misplaced the page 6 of Respondents testimony and Appellant was unable to provide a copy in the Appellant's Appendix page 880 Volume 3 and is now providing a copy. The augmentation request concerns documents which were all part of the record. Additionally, the augmentation should not cause a delay in this appeal.

CONCLUSION

For the above reasons, this Court should order the record to be augmented on appeal by including 1.) The sealed subpoena information from Imperial Bank at the Court house and 2.) Page 6 of Respondent's testimony inadvertently did not get copied in Appellants Appendix as page 880, these documents requested in this motion.

Dated: 9-16-09
Respectfully Submitted,

"s/"

Appendix M

Lorna Roos In Pro Per

DECLARATION IN SUPPORT OF MOTION TO AUGMENT

I, Lorna Stevenson Roos, declare and state as follows:

I am a self-represented litigant. Appellant discovered Imperial Bank did indeed satisfy a subpoena showing the marker and off-set of a suspicious check in the amount of $531,561 (see Appellants Appendix page 390 provides a copy of what was satisfied to the Court by Imperial Bank) but Judge Black wrongly put the information/ documents under seal when no one filed a motion to do so and Respondent never objected to the subpoena either and Appellant has been denied access to make a copy of the subpoenaed information as well. Appellant did give notice to the Court that Appellant was trying to locate these documents but the Court has failed to respond and or confirm they found the sealed subpoena from Imperial Bank showing the marker and off-set of the suspicious check, thinking it was possible for the reviewing Court to see what's in the sealed subpoena Appellant was not aware she needed the sealed subpoena to be designated on the appeal record for the reviewing Court to view the information as requested by Appellant in Appellants

brief. Also, the Court claims they have not been able to locate the sealed subpoena from Imperial Bank. I am a layman and I believe Judge Kenneth Black had no right to seal the Imperial Bank subpoena as no one filed a motion to have the information sealed. The sealed subpoena information was and is material to the cases' issues. The subpoenaed information was and is therefore a necessary element of the record on appeal. In addition Respondents testimony designated as page 880 in Appellants Appendix volume 3 was not copied by Kinko's and is now being included and attached to this motion. Because the documents requested are attached and or at the Court house under seal, there should be no significant delay, and possibly no delay at all with this appeal. I know of no prejudice to any party as a result of the granting of this motion. This motion is made in good faith for the reasons set forth above and not for the purposes of any delay.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 15th day of September 2009, at Los Angeles California

"s/"

Lorna Roos In Pro Per

Appendix N

COURT OF APPEAL,
SECOND APPELLATE DISTRICT
DIVISION THREE
STATE OF CALIFORNIA

Lorna Roos	Appeal No. B216438
Petitioner and Appellant	Superior No. BD202859
v.	MOTION TO AUGMENT RECORD ON APPEAL
Michael Y. Roos	
Respondent	(DOCUMENTS ATTACHED AS EXHIBITS A, B, C, D, E, F, G, & H)

Appeal from Los Angeles Superior Court
Judge Rudolph Diaz and Judge Kenneth Black

MOTION FOR AUGMENTATION OF THE RECORD ON APPEAL FILED 3-16-2010 WITH EXHIBITS ATTACHED AS A, B, C, D, E, F, G, & H, AND PROPOSED ORDER

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Appendix N

MEMORANDUM OF POINTS AND AUTHORITIES
AUGMENTATION SHOULD BE ORDERED TO ALLOW APPELLANT TO RECEIVE FULL AND FAIR APPELLATE REVIEW

Rule 8.155(a) of California Rules of Court permits the augmentation of the appellate record and specifically under Rule 8.155(a) (1) allows a document not designated under Rule 8.130 and or 8.124 to be augmented and permitted. It is well established that this rule is to be construed liberally. (*People v. Brooks (1980) 26 Cal.3d 471, 484*)

Appellant is requesting Augmentation of the record because Appellant has just received documents that have a direct bearing on the three main issues being heard on this appeal. The attached records just became available and are essential as they will aid the Court to determine the arrearages owed by Respondent, assets, and income concealed by Respondent on this appeal

1.) Respondent's failure to comply with disclosure requirements and the broad frauds committed by Respondent including the fraud at Children and Family Services which is still ongoing,

2.) Children and Family Services fraud committed by not collecting court ordered support, granting false credits for Respondent by accepting third party checks including now Janus Fund, Exxon, and Mobil as support paid to Appellant, and then conducting

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false audits for Respondent (manipulating records to cover- up false credits given including the divorce judgment equalizing check payment by audit), and

3.) Judicial Misconduct by Judge Black destroying evidence and allowing Respondent to put forth third party checks and divorce judgment checks as support to Appellant through audit department at Children and Family Services. This is all against the law. It is imperative that this augmentation motion be granted to include the new evidence as it shows why full discovery is warranted and why all of Respondent's assets need to be frozen immediately.

Appellant has attached duplicate statements sent from Charles Schwab that prove Respondent has been hiding additional assets, a defined benefit plan, and an Employer Tax I.D. Number. Respondent failed to disclose account numbers LA 7623-4155 and 9069-2761 on his final financial disclosure dated 3-2-2000. Respondent has another trust and is a trustee and owner of a defined benefit plan updated and amended on 1-1-2000 as shown on account number 9069-2761. The defined benefit plan is an undisclosed community asset that needs to be forfeited in its entirety actual account value $1,322,447.40 on Charles Schwab statement.

What's more, Respondent failed to disclose that he was using an employer Identification number 95-7110254 to conceal income and assets so Appellant is going to need full discovery to include discovery on this tax I.D. number as well in order to truly

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determine how many community assets and income have been hidden by Respondent. Appellant just discovered this information from the Charles Schwab statement on account number LA 7623-4155.

The statements attached from Charles Schwab were originally sent to the court house back in December 2007 prior to a higher support order hearing before Judge Black for April 2008 but were withheld from Appellant. The enclosed statements are very damaging to Judge Black and Respondent as Appellant was not even given any money for an attorney and or proper discovery by Judge Black. If Appellant had these Charles Schwab statements Appellant suspects both the outcome from the higher support order hearing and the set aside motion hearing would have been different as this new evidence clearly proves Respondent failed to disclose assets and income. Respondent was corruptly hiding assets and income from Appellant using a employer I.D. number that he never disclosed on his final financial disclosure and the income from this tax return which was never calculating in on the higher support orders either.

Appellant has previously requested all her subpoenaed records from the trial court and the trial court refuses to turn over any records to Appellant to date. In fact, Appellant has never been given any access to see her court file since April 1st, 2008. The court claims the case file cannot be located now.

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As the Judgments were based on fraud, perjury, and its own determination of the credibility of conflicting declarations that has now become an issue Appellant wants the new evidence included in the appeal as it proves Respondent lied about many community assets especially regarding the Charles Schwab accounts.

Also, Respondent never disclosed he was a trustee and owner of a defined benefit plan which should have been included in the martial estate. The issue can only be reviewed on appeal if the Charles Schwab information is part of the appellate record and can be viewed by the reviewing court as there appears to have been judicial misconduct by Judge Black over this matter as well.

In addition, Appellant has just received a distribution list from Children and Family Services showing all distribution checks sent to Appellant whereby the distribution statement proves Respondent never paid any money towards the arrearages case.

Also, there was a letter sent from a Ms. Larkin stating a meeting and or hearing occurred on the arrearages case on 3-31-04 whereby Appellant was never included in this meeting and the court docket further proves no hearing took place but apparently, the arrearages case was wiped clean on 3-31-04 behind closed doors without Appellant's knowledge (Appellant believes judgment equalizing check was applied to back support on 3-31-04 as well (double

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credit) when the check wasn't even given to Appellant until 7-2004).

Appellant requested an audit be done going back to 1994 because of all the false credits given to Respondent especially with the missed payment in November 2009. Appellant has never received any arrearages support from Respondent and or the court trustee only interest payment checks. But now Children and Family Services have completed an audit and have fraudulently applied these interest payment checks received as support paid to Appellant (which is fraud) to cover –up the fact that Respondent had fraudulently presented to audit in two possibly three prior audits additional checks from the divorce judgment Janus Fund ($20,000), Exxon ($10,421.) and Mobil ($14,332.90) as false payment of support paid to Appellant.

Moreover, Children and Family Services performed a new audit on Feb. 2010 carving out an audit date only going back to April 2004 because the arrearages were wiped clean on 3-31-04 and never paid. They have now fraudulently included late payments sent in by Respondent for the months of Feb. and March of 2004 as credit in the audit for the month of March/April as support paid for April which shorted Appellant $20,540 in support.

Also, on the new audit Appellant is being charged with approx. $10,270+ $4,152.88 from interest payment checks on the arrears that were never paid as now credit for support checks paid in 2004 to

cover-up Mobil check of $14,322.90 previously put forth and fraudulently credited in a prior audit. So, Respondent is getting double credit as interest paid on arrears first and then through audit as support paid on the same check issued for interest payment. In addition, on the new audit Appellant is being charged with the late March support payment received in April of $10,270 as payment of support paid now towards the month of April 2004 (Respondent is getting double credit again for the same check) in order to cover- up more fraudulent credits previously given in a prior audit on a Exxon check of $10,421 for Respondent. The fraudulent checks credited as support paid by Respondent total ($20,540) and fraudulently credits given as received paid out to Appellant total ($24,000 approx). This brings the total false credits given by audit to $45,000 approx. for Respondent. Appellant needs this money ASAP to pay rent and college bills for her daughter.

Not only is augmentation necessary, it will not prejudice any party. The record should include all attached Exhibits A, B, C, D, E, F, G, & H as follows: (Exhibit "A") The Charles Schwab Statements for accounts LA 7623-4155 and 9069-2761 because they reveal additional hidden community assets and concealed income by Respondent. Children and Family Services have just sent a breakdown showing

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the distribution checks sent documenting no arrears were paid by Respondent so the augmentation should include **(Exhibit "B") distribution list statement**, all supporting (**Exhibit "C") interest checks documents** $10,270+ $4,152.88 because Respondent is now getting double credit as support paid in new audit just completed on Feb 2010 (when these checks are interest checks not support payments) to cover- up fraud on prior audits (prior false credits given to Respondent (**Exhibit "D") Exxon check of $10,421** and (**Exhibit "E") Mobil check of $14,332.90** thru audit) Also, the actual distribution checks show interest was paid on the arrears but no arrears were paid., (**Exhibit "F") simple audit sheet Report** because it shows the fraudulent credits paid and received in month of April 2004, and(**Exhibit "G")** letter **from Ms. Larkin** confirming date arrearages were wiped clean 3/31/04. The overdue **(Exhibit "H") bill from Charles Schwab** proves the records were sent to the court house which is judicial misconduct (destroying evidence) as Appellant was denied these records. The augmentation request concerns documents which are regarding the issues of this appeal and should be part of the record. Additionally, the augmentation

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should not cause a delay in this appeal as the documents are attached.

Dated: March 16th, 2010

Respectfully Submitted,

"s/"

Lorna Roos In Pro Per

DECLARATION IN SUPPORT OF MOTION TO AUGMENT

I, Lorna Stevenson Roos, declare and state as follows:

I am self-represented litigant. Appellant is requesting augmentation of the record because Appellant has just received the attached information and knows without it the Court will not be able to determine the issues on appeal correctly regarding the arrearages owed, assets, and income concealed by Respondent which rightfully belong to Appellant.

Appellant is requesting full discovery as Appellant believes this is just the tip of the iceberg as to Respondents lack of full disclosure and frauds committed. Appellant would like at the very least a proper freezing order be put in place on all Respondent's assets until the full marital estate can

be determined. Appellant wants money for a forensic accountant and an attorney as Appellant is not equipped to handle these issues with only a high school education.

In addition, Appellant believes the court intentionally failed to hand over records because the evidence clearly proves Appellant's charges that Respondent has unfairly hide community assets and income. Appellant believes the court deliberately destroyed evidence because the withheld records shed some light on the Judicial Misconduct alleged by Appellant too. Also, Respondent has refused to turn over any tax returns. Appellant didn't even know these records existed until last week when Appellant was putting the bills together for the appeal and noticed from an overdue bill received from Charles Schwab that they had indeed satisfied a subpoena on case BD 202859. The trial court has wrongly failed to give Appellant her subpoenaed information. Appellant has approx. 10 outstanding bills from subpoenas and has never received this information from the court.

In addition, Appellant has just figured out from a distribution statement sent from Children and Family Services along with previously sent interest

checks from Children and Family Services, and with a simple audit report statement just sent from Children and Family Services that Children and Family Services has performed a fraudulent audit. Children and Family Services is fraudulently manipulating the books in order to cover up prior false credits given to Respondent in at least two maybe three prior audits for a Janus Fund check $20,000, Exxon check $10,421, Mobil check $14,332.90, and divorce equalization check too.

Respondent has become a master criminal at getting fraudulent double credits for the same check. It takes a lot of time and energy to figure out exactly how he has committed these crimes because Children and Family Services have refused to give Appellant any records backing up the audit. More importantly, this pattern of abuse being committed by Respondent, Children and Family Services, and the trial court needs to be stopped because it is affecting the current support due. Ultimately, Appellant wants all involved to be prosecuted to the full extent of the law for the constant financial abuse caused and abuse of power by Respondent.

Appellant has not received current support (Respondent missed another payment again through audit November 2009 entirely and Respondent should be jail for this non payment) because of the

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false application of the interest payment checks on this latest audit performed. Appellant cannot absorb these missed support payments totaling $45,000 now from April 2004. Appellant needs to pay her rent and her daughters Pepperdine University tuition and dorm dues owed. Children and Family Services have now maliciously counted the interest payment checks on arrears as support paid to Appellant in the amount of approx. $10,270+ $4,152.88 plus they have also included a payment that was for March 2004 as credit in the audit as payment for April's support in order to cover- up the credits previously given to Respondent in prior audits as Respondent obviously presented the Exxon check for $10,421 and Mobil check for $14,332.90 as proof of payment when these checks were from the divorce judgment. Appellant has not received current support of over Approx. $45,000 because of these false interest check credits given to Respondent and false credits towards April 2004 in the current audit for Respondent. Note: Respondent is receiving credit of $20,540 in the month of April 2004 on the new audit as support paid (when this amount is really for Feb and March 2004 late payments received in the month of March). The Feb. and March payments have been fraudulently included in the audit to cover-up the false credit given on Janus Fund of $20,000. Respondent was fraudulently credited in the simple audit sheet of support paid in the amount of $43,000 approx. which has been applied as $20,504 towards

arrears and $24,000 approx. credited as April's support paid. (How can this be when Respondent has never paid any arrears owed and Respondent was behind on current support payments at this time?)

For the above reasons, this Court should order the record to be augmented on appeal by including **Exhibit "A")** Charles Schwab statements, **Exhibit "B")** Distribution statement showing actual distribution checks whereby arrears interest checks were sent from Children and Family Services proving no arrearages were paid only interest, **Exhibit "C")** interest checks now being reported as support paid on new audit ($10,270+ $4,152.88), **Exhibit "D")** copy of Exxon check for $10,421., **Exhibit "E")** copy of Mobil check for $14,322.90,

Exhibit "F") fraudulent simple audit report sheet sent to Appellant with no back up records showing the false credits given especially in the first month on the new fraudulent audit for the month of April 20[illegible] **Exhibit "G")** letter from Ms. Larkin from Children and Family Services proving a hearing took place on 3-31-04 but not on court docket whereby the meeting apparently wiped clean any arrearages owed without Appellant's knowledge, and **Exhibit "H")** copy of bill owed on records sent to the court house judicial misconduct evidence destroyed not given to Appellant from Charles Schwab.

I declare under penalty of perjury that the foregoing is true and correct.

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Executed this 16th day of March 2010, at Los Angeles, California

Respectfully submitted,

"s/" _____

Lorna Roos In Pro Per

MOTION TO AUGMENT
EXHIBIT LIST

Exhibit "A" Charles Schwab statements on account LA 7623-4155 and 9069-2761

Exhibit "B" Distribution List Statement

Exhibit "C" Interest Checks on arrears

Exhibit "D" Exxon check $10,421

Exhibit "E" Mobil check $14,322.90

Exhibit "F" Simple Report sheet audit

Exhibit "G" Letter from Ms. Larkin from Children and Family Services

Exhibit "H" Bill from Charles Schwab on subpoenaed documents

Appendix O

COURT OF APPEAL,
SECOND APPELLATE DISTRICT
DIVISION THREE
STATE OF CALIFORNIA

Lorna Roos	) Appeal No. B216438
Petitioner and Appellant	) Superior No. BD202859
v.	) MOTION TO AUGMENT RECORD ON APPEAL
Michael Y. Roos	)
Respondent	)
	(DOCUMENTS ATTACHED AS EXHIBITS A, B, C, and D)
	)

Appeal from Los Angeles Superior Court
Judge Rudolph Diaz and Judge Kenneth Black

MOTION FOR AUGMENTATION OF THE RECORD ON APPEAL FILED 3-23-2010 WITH EXHIBITS ATTACHED AS A, B, C, and D AND PROPOSED ORDER

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In Pro Per

Appendix O

MEMORANDUM OF POINTS AND AUTHORITIES
AUGMENTATION SHOULD BE ORDERED
TO ALLOW APPELLANT TO RECEIVE
FULL AND FAIR APPELLATE REVIEW

Pursuant to Rule 8.155 (a) of the California Rules of the Court, I, Lorna Roos, Appellant, request augmentation of the record on appeal to include this motion with attached documents Exhibits "A", "B", "C", and "D" from Children and Family Services regarding fraud committed on case number BD 202859.

Rule 8.155(a) of California Rules of Court permits the augmentation of the appellate record and specifically under Rule 8.155(a) (1) allows a document not designated under Rule 8.130 and or 8.124 to be augmented and permitted. It is well established that this rule is to be construed liberally. (*People v. Brooks (1980) 26 Cal.3d 471, 484*)

Appellant is requesting Augmentation of the record because Appellant has just received additional documents that have a direct bearing on the issues being heard on this appeal. The attached records just became available and are essential as they will aid the Court to determine the full extent of fraud involved at Children and Family Services and the additional arrearages owed by Respondent.

Children and Family Services has committed more fraud by not collecting current court ordered support, granting false credits for Respondent by accepting third party checks (which included Janus Fund,

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Exxon, and Mobil as support paid to Appellant), and then conducted false audits for Respondent (manipulated records with false wage assignments in new audit to cover- up false credits previously given by audit)

I, Appellant just figured out from the new audit received which included an Individual Payment Report (See exhibit "A") and from previously issued distribution checks sent to me (See exhibit "B") that there are fraudulent wage assignments being included in this new audit by Children and Family Services because the distribution checks show Respondent is in arrears but then in the new audit for the very same month now Respondent is falsely shown as overpaid.

I, Appellant, Lorna Roos know from at least four distribution checks previously issued and received (See exhibit "B") that the checks clearly show and do not lie that Respondent was in arrears again, again, again but then Respondent was able to orchestrate an audit behind Appellant's back and have any arrears and interest owed wiped clean when needed (Respondent must have presented third party checks for credit as proof of support paid at these secret audits Janus Fund $20,000, Exxon $10,421, and Mobil $14,332.90). Now the new audit fraudulently portrays Respondent has over paid in the very same months when Respondent was in arrears on the distribution checks previously sent. The auditor must have inserted fraudulent wage

assignment credits to cover up the previous false credits given on Janus Fund, Exxon, and Mobil in prior audits at the department of Children and Family Services.

See Exhibit "B"

1.) Check 6-23-06 shows Respondent in arrears
2.) Check 4-18-07 shows Respondent in arrears
3.) Check 1-16-08 shows Respondent in arrears
4.) Check 1-30-08 shows Respondent in arrears

See Exhibit "C"

Simple Report Audit from Feb. 2010 (fraudulent Audit performed whereby Children and Family Services list false wage assignments to now reflect over payment in months when Respondent was in arrears)

1.) Month of 6-08 fraudulent audit Simple Report shows Respondent is now falsely overpaid by $24,691.34 when previously issued distribution check number 0000700122 from 6-23-06 shows Respondent was in arrears again.
2.) Month of 4-07 fraudulent audit Simple Report shows Respondent is now falsely overpaid by $32,170.34 when previously issued distribution check number 0002957222 from 4-18-07 shows Respondent was in arrears again
3.) Month of 1-08 fraudulent audit Simple Report shows Respondent is now falsely overpaid by $41,405.88 when previously issued check number 0004823377 from 1-16-08 and check number

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0004909070 1-30-08 shows Respondent was in arrears again.

See Exhibit "A"

Individual Payment Report
Apparently, there are some false wage assignments. Appellant believes this would have been easy for Respondent to commit this kind of fraud at his employer as he is a part owner of Stone and Youngberg LLC. See wage assignments for 7-28-05, 8-29-05, 8-29-05, 9-30-05, 10-31-05, 10-31-05, 11-30-05, 11-30-05, and 2-28-06 to make sure they are indeed valid.(If all these wage assignments were truly collected there would be no need for Respondent to send a payment in for $710.12 just recently as there would be cash in the account for more than this amount. Appellant believes an outside auditor will find at least 3 possibly 4 payments credited for Respondent as a wage assignment received when the money was never received from Stone and Youngberg)

There are additional documents attached from a Victor Carberry (See Exhibit "D" letter with attachment "a" & "b") Which were sent after Appellant and her twin sister, Leslie Reilly were prevented from viewing any records on case number BD 202859 on March 4th, 2010 at Children and Family Services by Ana Pedrosa and Edna Camero.

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Appellant was told at the meeting that occurred on March 4th, 2010 that Children and Family Services was standing behind their fraudulent audit and that Appellant would be receiving the back- up requested (actual checks) and a letter to this effect. Also, Appellant was informed that Children and Family Services would not keep records beyond five years all while Appellant is being denied access to her records.

As previously mentioned in the motion to augment filed on 3-16-2010 there are interest checks and prior months support payments fraudulently being applied as support payments now for month of April 2004. (See exhibit "D" with attachment "B") from Children and Family Services as Payments received vs. Payments issued CK # 7606488 for $10,270 is for Feb. support payment, Ck # 7651754 for $4,152.88 is for interest on arrears owed, CK # 7714904 for $10,270 is for March support payment, and Note: of NSF for Feb. 2004 all these payments issued are being fraudulently included in this new audit when they are for prior months support and or interest payments on arrears. Children and Family Services are attempting to bury false credits given on Janus Fund, Exxon, and Mobil. Children and Family Services refused to give the actual checks because they would reveal the truth so they have prepared another fraudulent document in support of the new fraudulent audit performed in Feb. 2010. In addition, Respondent is getting credit as payments received of $20,504 when this amount is for the

months of Feb. and March support payments made which should not be included in Respondent's total for month of April in the amount of $43,441.88. Respondent is fraudulently getting credit for an additional $20,540 in the month of April.

At no time has Respondent ever paid any arrears in the amount of $20,504 to Appellant. Respondent was able to get every arrears case pushed into audit and then wiped clean. Respondent never paid arrears in the amount of $924,000. + Also, Respondent owes new arrears in the amount of $55,000 + interest. Respondent doesn't pay support in the months in advance of the outcome of these fraudulent audits. Respondent never pays the months of support that were missed in their entirety see months 3-04,3-06,4-06,2-07,11-07,11-08, and 11-09. (See exhibit "C") Respondent must have presented third party checks to audit (Janus Fund $20,000, Exxon $10,421, and Mobil $14,332.90) because Children and Family Services would not be knowingly participating in attempting to bury these previous false credits given by now assigning false wage assignments for Respondent fraudulently using Stone and Youngberg too unless they knew of the previous false credits given to Respondent.

Respondent has become a serial abuser by throwing the case into audit. Respondent manipulates the audits to get false credits and then doesn't pay his court ordered support all behind Appellant back.

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This abuse has continued for years by Children and Family Services granting false credits (theft by audit), not notifying Appellant of these fraudulent audits, not supplying Appellant with records, and or orders to prove the fraud earlier.

Not only is augmentation of the record necessary, it will not prejudice any party.
For the above reasons the Court should order the record to be augmented on appeal by including this motion with

Exhibit "A" Individual Payment Report (showing fraudulent wage assignments)
Exhibit "B" Actual distribution checks showing the arrears
Exhibit "C" Simple Audit Report showing false overpayment for Respondent
Exhibit "D" letter from Victor Carberry with attachments "A" & "B" sent from

Children and Family Services

This motion is made in good faith for the reasons set forth above and not for the purposes of any delay.

I declare under penalty of perjury that the foregoing is true and correct.

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Executed on this 23rd day, of March 2010, at Los Angeles, CA

"s/"
Lorna Roos In Pro Per

DECLARATION OF APPELLANT, LORNA ROOS IN SUPPORT OF MOTION TO AUGMENT RECORD ON APPEAL DATED 3-22-2010

I, Lorna Roos, Appellant just received a letter with attachments "A" & "B" on 3-17-2010 from Children and Family Services dated 3-10-2010 from a Victor Carberry (see exhibit "D") that further demonstrates the magnitude of fraud being committed at the audit department in Children and Family Services on case number BD 202859.

I, Appellant was able to figure out from the new audit received which included an individual payment Report (See exhibit "A") that there are fraudulent wage assignments being included in the audit by Children and Family Services. (Which were supposedly issued on behalf of Respondent from Stone and Youngberg that he just so happens to be a partner of Stone and Youngberg LLC) Respondent was in arrears on distribution checks previously sent to me, Appellant. The previously sent distribution

checks prove the new audit has false wage assignments because the new audit fraudulently shows Respondent is now overpaid in the very same months that Respondent was previously in arrears as stated on the distribution checks. (See exhibit "B") Children and Family Services is actively covering-up prior false credits (Janus Fund $20,000, Exxon $10,421, and Mobil $14,332.90) given for Respondent by audit by now inserting false wage assignments as proof of payment for Respondent in this new audit. The criminal behavior at Children and Family Services needs to be stopped immediately.

In addition,(See exhibit "D" with attachments "a" & "b") just sent from Children and Family Services they are fraudulently including payments received and paid from prior months before the audit date of April 2004. This makes the audit invalid as the auditor clearly knows from basic accounting principles this is fraud. See Attachment "A" from Children and Family Services which is included in (See exhibit "D") there is a credit from prior month of March 2004 of $20,504 fraudulently included in April's total of $43,441.88 as payment received from Respondent. Also, in (See exhibit "D") there is Attachment "B" from Children and Family Services which shows false credits given which are for the months of Feb. and March support payments paid in month of April. These payments should not be included in this audit but are now fraudulently being applied as support payment for the month of April

when they are for the prior months of Feb. and March 2004 support owed. Note: None of the distribution checks issued prior to April and or April's checks issued are for arrears of $20,504 as there were no arrears ever paid. Appellant has never received any arrears owed prior to April 2004 of over $924,000+ as Respondent got the arrears cases wiped clean including the interest payments owed as well. Appellant never received the arrears of $20,504 either.

I, Appellant, Lorna Roos and my twin-sister, Leslie Reilly met with Ana Pedosa and Edna Camero on March 4th, 2010 at Children and Family Services offices in City of Commerce because I, Appellant, was promised that I would be able to view my records once there. I, Appellant informed Ana and Edna that my sister and I are both disabled but would make the drive because I was in need of the missed support owed $55,000 plus interest. However, after driving over 3 hours from Santa Barbara I was then informed by Ana and Edna that they had no records in Commerce that another department in Sacramento had my records on case file BD 202859. Next, Ana and Edna from Children and Family Services informed me they were standing behind this latest fraudulent audit whereby Respondent had already sent in a check for $710.12 so no arrears were due.

Furthermore, I was informed that Children and Family Services only have to keep records going back

five years. At this meeting Ana and Edna refused to let me view any records in my file and or make copies of any records backing up the latest fraudulent audit showing the proof of payments received and or paid (checks). I, Appellant was handed a minute order stating that Mr. Mike Roos owed arrears of only $20,504 as of March 31, 2004 on the arrears case of over $924,000+ but both ladies refused to show how any proof of payment was received any check and or payment received from Mr. Mike Roos on these arrears owed as none was ever paid to me.

I, Appellant, was told they did not have access to this information so they would send a breakdown later showing the actual checks received as payment from Mr. Mike Roos which I still have not received.

At this meeting it became apparent that Ana and Edna were only interested in explaining that no checks were credited outside the court trustee as payments received on prior audits. Also, they explained there were credits possibly given on wage assignments from Stone and Youngberg when no money changed hands but they couldn't do anything about it as they were told to give credit for these wage assignments as paid when the monies were coming directly from Respondent, Mike Roos. This made no sense at that time. At this meeting we were told no wage assignments are currently in place at Mr. Mike Roos' employer Stone and Youngberg which is very alarming.

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Additionally, Ana and Edna claimed to have just learned of a stop payment check from Feb. 2004 account from Ms. Allen as they were told that morning the difference in the amounts paid and received in the latest fraudulent audit completed in Feb. 2010 dated from only April 2004 but was now affected by an NSF from Feb. 2004 before the audit date. This made no sense either. The new fraudulent audit apparently could not bury all the false credits previously credited in prior audits (Janus Fund, Exxon, and Mobil) whereby there was now a $10,270 difference. The NSF check from Feb. 2004 which was before the audit date and should not be included in the audit was the best explanation they could come up with.

Appellant and her twin sister got the feeling that Ana and Edna were interested in only knowing what they had evidence regarding false credits given and even tried to keep Appellant's audit paperwork sent by a Ms. Beverly Morales showing the wage assignments (Apparently fraudulent) credited for Respondent, Mr. Mike Roos by Children and Family Services and Stone and Youngberg.

I, Appellant, Lorna Roos never received support in the months prior to these secret fraudulent audits being performed. Whereby Respondent already knows he has enough false credits being credited through audit so Respondent doesn't pay support in the months in advance of the outcome of these audits. Respondent is never put in jail for not paying

his court ordered support when Respondent is in arrears of over $2,500 prior to the audit being performed. Each time case number BD 202859 is put into audit Appellant is not notified this is happening by Children and Family Services. Respondent learned how to throw his arrears cases into audit and then manipulate the audit so no arrears are owed. Appellant has been harmed over and over again because of these fraudulent audits performed. The employee's from Children and Family Services have been extremely rude and abusive with tone and language. I, Appellant, Lorna Roos want everyone and anyone who has touched my file and or case number BD 202859 at Children and Family Services to be prosecuted to the full extent of law. Also, the fraudulent wage assignments need to be investigated as well and the back- up records should be requested immediately from Stone and Youngberg. The augmentation request concerns documents which are regarding the issues of this appeal fraud at Children and Family Services (theft by audit) and should be part of the record. Additionally, the augmentation should not cause a delay in this appeal as the documents are attached.

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Dated: March 23rd, 2010

I declare under penalty of perjury that the foregoing is true and correct.

Respectfully submitted,

"s/"

Lorna Roos

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COURT OF APPEAL, SECOND APPELLATE DISTRICT
DIVISION THREE
STATE OF CALIFORNIA

Lorna Roos	) Appeal No. B216438
Petitioner and Appellant	) Superior No. BD 202859
v.	) Motion to take
	) Judicial Notice
Michael Y. Roos	) to take evidence
	) on appeal
Respondent	)

Appeal from Los Angeles Superior Court, Judge Rudolph Diaz and Judge Kenneth Black

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MOTION TO TAKE JUDICIAL NOTICE AND PROPOSED ORDER

Pursuant to rule 8.252 of the California Rules of Court, and to Evidence Code sections 452, and 459, Appellant requests this Court to take Judicial Notice to take the evidence ATTACHED, mistakenly presented in unopposed Motions to Augment, The attached evidence subpoenaed court records and state agency records need to be a part of the appellate record; Wrongly Sealed Subpoena showing maker and off-set on the $531,561 from Imperial Bank, Copy of Charles Schwab account statements LA 7623-4155 & 9069-2761 from subpoena, Copy of the fraudulent simple audit report from DCSS, distribution checks showing

arrears from DCSS, interest checks from DCSS (warrants), payments received v. payments issued along with individual payment history from DCSS, and distribution list statement from DCSS as all these documents clearly prove the audit DCSS are aiding and abetting Respondent by fraudulently manipulating records to show Respondent is current on support payments when Respondent is in arrears of over a million dollars from the original order from 1994. This motion is made on the grounds that the documents attached are relevant and vital to the undisputed facts and would resolve issues raised on this appeal to avoid a miscarriage of justice. This request for Judicial Notice is based on the following points and authorities, declaration of Lorna Roos, and attached documents.

Respectfully submitted, "s/"

LORNA ROOS IN PRO PER
1482 Valley Rd. #305
Santa Barbara, Ca. 93108 (805) 845-8395

MEMORANDUM OF POINTS AND AUTHORITIES

MOTION TO TAKE JUDICIAL NOTICE
TO ALLOW APPELLANT TO RECIEVE
FULL AND FAIR APPELLATE REVIEW

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California Rules of the Court, rule 8.252 provides the means for Judicial Notice on appeal. The rule provides in subdivision (a) (2) that the motion must state:

(A) Why the matter to be noticed is relevant to the appeal;

(B) Whether the matter to be noticed was presented to the trial court and, if so, whether judicial notice was taken by that court; and

(C) Whether the matter to be noticed relates to proceedings occurring after the order or judgment that is the subject of the appeal.

(Cal. Rules of Court, rule 8.252 (a) (2).)

Appellant is asking this Court to take Judicial Notice of the wrongly sealed subpoenaed court record on the $531,561 cashier's check showing the maker and offset from Imperial bank in the Superior Court by Judge Kenneth Black under case No. BD202859 (In which Appellant is requesting be unsealed immediately as new evidence proves this is an unadjudicated community asset), newly discovered evidence by Appellant from Charles Schwab subpoenaed court records which were fraudulently withheld from Appellant by the Superior Court in Judge Black's and Judge Diaz' courtroom proves Respondent failed to disclose multiple tax Identification numbers, trusts, defined benefit plan worth over a million three hundred thousand as of 2007 on Charles Schwab statement (copy of

subpoenaed court records), and new evidence sent to Appellant from the Department Child Support Services(official government source) regarding a fraudulent audit simple report dated Feb. 2010 shows Respondent has been given false credits as support paid to Appellant whereby the Department of Child Support Services are now aiding and abetting Respondent by manipulating the records to cover-up fraud.

Satisfied subpoenaed court record from Imperial bank subpoena which was wronged sealed showing maker and off-set of $531,561 un-adjudicated community asset (AA390)

This Court may properly take Judicial Notice that the sealed subpoena was wrongly sealed as when the Superior Court Judge Kenneth Black sealed the subpoena the Court relied on a false claim made by Respondent that this money of $531,561 belonged to Respondent's mother as her separate property.

In addition, Respondent's mother never objected to the subpoena being satisfied, failed to appear for her scheduled deposition, and or refused to appear at Court to protect the false ownership claim made by Respondent on the $531,561.

Also, Judge Black fraudulently put Appellant's In Contempt charges filed on this matter off-calendar and refused to hear them. Respondent refused to

turn over any records and or tax-returns to verify he was indeed telling the truth at this time when subpoenaed to do so. Respondent had falsely claimed during the divorce that his mother owned the interest in Commerce Casino and that the $531,561 was a tax-free dividend check to his mother as her separate property. Appellant was denied discovery on this check for $531,561 because it was information from a third party false claim mother's separate property and at that time Appellant could not prove the $531,561 was a marital asset.

However, Appellant discovered new evidence (K-1 form from Commerce Casino) from subpoenaed information at the courthouse on 4-1-08 at a higher support order hearing that Respondent owned an interest in the Commerce Casino.

Then, after visiting Respondents' mother's probate file and receiving a official probate record on Respondent's father on April 15th, 2008 showing Respondent's father died with no will and or probate, Appellant not only discovered Respondent failed to disclose he was a co-trustee of a trust but that the trust was a sham Trust, and the portrayal of having a rich mother was false. This concealed sham trust was used by Respondent to steal Appellant's and Appellant's twin-sister's separate property money and community assets from Appellant. Also, Appellant learned at this time the concealed sham trust owned the interest in Commerce Casino and the $531,561.

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Respondent failed to disclose he was a co-trustee of this sham trust on his final financial and falsely portrayed to the Court, he had a rich mother that was loaning, borrowing, and gifting money to the community estate and because of this fraudulent material fact Respondent was able to fraudulently procure many assets in the judgment. In addition, Respondent failed to disclose the trust as he knew the sham trust would not hold up to any scrutiny and had the trust been known during the divorce Appellant would have received discovery to the fraud committed and would have found the embezzled assets much earlier. Technically, the trust document should be null and void because Respondent listed his father as an original co- trustee (whereby Respondent's own father died with no will and or probate making the trust document fraudulent) to avoid prosecution with the Feds and to match Respondents false inheritance claim when the trust was fraudulently authored by Respondent after a brief separation from Appellant which was after his father's death and during the marriage to embezzle assets.

Respondent's parents never had the means to make an investment in the Commerce Casino. Respondent's parents lived on Social Security and the new evidence proves Respondent's father died with less than $10,000 dollars no probate no will as discovered by Appellant on 4-15-2008. Respondent failed to disclose the $531,561 was a community

asset and or asset of this sham trust which was set up during the marriage to divert assets and income.

So, Appellant immediately filed for a set aside motion on September 29th, 2008 for Judgment dated June 2nd, 2004 to be set aside in its entirety due to the lack of financial disclosure and false material facts given to the Court by Respondent; fraudulent concealment of assets, income, and fraud.

Also, Appellant learned of judicial misconduct, which was discovered at this time, whereby Appellant discovered her original written trial briefs (requested testimony to be put in writing by Judge Kenneth Black) were fraudulently not even considered and or made part of the record as they are not listed on the Court docket as received, that the imperial bank subpoena had indeed been satisfied showing the maker and off-set (Appellant was never told of this), and there would be no statement of decisions forth coming as requested in Appellants written trial brief and as promised by the Court because the Judgment from June 2nd, 2004 was based on fraud and concealment of records.

Unfortunately, Judge Rudolph Diaz put off hearing the set aside motion filed on Sept. 29th, 2008 until April 27th, 2009 and then, abused his discretion by denying the set-aside motion as lacking proof, when no reasonable Judge could come to this conclusion with all the clear and convincing evidence put forth in the original filing and case over-view filed with the Court in advance of the hearing on April 27th, 2009.

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Appellant has had to pay all her own costs, has been given no money for an attorney, has had to pay for the wrongly sealed subpoena court records, and is being precluded from presenting her case without the subpoenaed court records. Appellant is being denied basic due process rights to discovery because the Court has abused its discretion, concealed documents, and has relied on Respondent's false claims without any reliable third party evidence.

The Court now knows the $531,561 asset is a part of the community estate and is not mother's separate property as previously falsely claimed by Respondent, Whereby Respondent failed to disclose he was a co-trustee of a sham trust which needs to be adjudicated forfeited in its entirety. The subpoenaed information belongs to Appellant not the court. Appellant wants the sealed subpoenaed information showing the marker and off-set on the $531,561 immediately unsealed and made available as the information would give insight to the facts and help resolve the issues on this appeal without creating a manifest of injustice. If the subpoenaed information is not unsealed and made a part of the record on this appeal it would manifest a greater injustice as Appellant believes the $531,561 is settlement money on a car accident whereby her twin-sister is disabled, doesn't breathe properly, and has not received proper health care.

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Newly discovered evidence by Appellant from Charles Schwab account statements LA 7623-4155 & 9069-2761 (Subpoenaed records sent to the Court which were fraudulently withheld and concealed from Appellant. The newly discovered evidence of the Charles Schwab statements indisputably proves Respondent fraudulently concealed community assets and income from Appellant. Also, there are several undisclosed accounts at Charles Schwab, multiple undisclosed tax I.D. Numbers being used by Respondent, trusts, and a defined benefit plan which need to be adjudicated forfeited and further discovery needs to be granted for Appellant.)

The Superior Court failed to turn over the subpoenaed records from Charles Schwab to Appellant. In addition, the Superior Court ruled on support orders whereby Respondent failed to turn over valid tax-returns, did not report his true income, and committed perjury on all his income and expense statements submitted for these support orders. The evidence from Charles Schwab court records is essential to determine the true marital estate assets and true income because all support orders will need to be set aside and the Judgment in its entirety from June 2nd, 2004 as the Court orders and Judgment are now based on fraud. The Charles Schwab statements court records certainly prove Appellant's main issues on this appeal and without the inclusion of these statements there would be a

total miscarriage of justice as Respondent has procured fraudulent Judgments and support orders. As the Court has previously relied on false material facts submitted by Respondent and the Court has concealed and withheld these records from Appellant it is only fair that the statements are included in the appellate record and be considered on this appeal.

Fraudulent audit simple report from DCSS, distribution list statement from DCSS, interest checks from DCSS, individual payment report from DCSS, distribution checks showing arrears from DCSS proving fraud at Department of child support services.

The Department of Child Support Services fraudulently performed a simple audit report for Respondent on Feb. 2010 whereby they fraudulently manipulated the records for Respondent to show Respondent is current on support payments when Respondent has not paid support, has been given false credits on third party checks, and is in arrears of over a million dollars from the original order of 1994.

Appellant has not been allowed access to her records, has been prevented from participating in any of the audits performed at Department of Child Support Services, has been prevented from seeing any orders, has been denied a state hearing on the matter, has been treated with hostility on this matter, and has been denied any evidence proof of

support payments paid by Respondent. Respondent stops paying Court ordered support in advance of these audits being performed and is currently harming Appellant and the Children. Respondent should be in jail for not paying support, financially abusing Appellant through audit at DCSS, and for manipulating the records at Department of Child Support Services.

Fortunately, Appellant kept the previous records issued from the Department of Child Support Services Court Trustee (interest checks and distribution checks showing arrears from the state agency) and the Department of Child Support (distribution list statement, individual payment report from DCSS state agency), whereby this evidence now undisputedly proves that the audit department at Child Support Services are committing "theft by audit" and are now aiding and abetting Respondent by fraudulently manipulating records to cover-up fraudulent credits previously given to Respondent in this new audit just performed in Feb. 2010.

As Respondent is resting his case on the fact that Respondent alleges that the audit department of Child Support Services are performing correct audits, when this new evidence clearly proves otherwise that they are committing fraud, it is only fair the new evidence be made a part of the appellate record and it goes directly to the issues raised on appeal. Appellant requests all the documentary

evidence from the Department of Child Support Services which is attached to the enclosed motions to augment record dated March 18th, 2010 and March 26th, 2010 be considered on this appeal because the Court would avoid a miscarriage of justice.

The documents listed below are relevant to the resolution of the issues on appeal.
Exhibits:
A.) Sealed Subpoena Court records of subpoenaed information from Imperial Bank showing the off-set and maker of the $531,561 not attached at Court house, copy of subpoena information sent to Court house from Imperial Bank attached to motion to augment dated September 18th, 2009.
B.) Copies of Charles Schwab account statements from subpoenaed court records LA 7623-4155 & 9069-2761 copies attached. Also, copies are attached to motions to augment dated March 18th, 2010 and March 26th, 2010.
C.) Copy of fraudulent audit simple report from DCSS (state agency records) , distribution list statement from DCSS (state agency records) , interest checks from DCSS(state agency records), individual payment report from DCSS (state agency records), and distribution checks showing arrears from DCSS (state agency records) copies of documents are attached. Also, documents are attached to the motions to augment dated March 18th, 2010 and March 26th, 2010.

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Appellant requests that this Court take Judicial Notice of Exhibits "A" (sealed subpoena not attached) and "B" (copy of subpoenaed court records attached). These exhibits are from subpoenaed information sent to the Court and should be judicially noticed Under California Evidence Code section 452, we may take judicial notice of "[f]acts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy." The information contained in Exhibit C are official state agency documents published by the Department of Child Support Services of the state of California. The documents reflect a fraudulent audit was performed by DCSS in Feb. 2010, statement of distribution checks from DCSS, interest checks from DCSS, individual payment report from DCSS, and distribution checks showing arrears from DCSS.

In addition, the documents are from a government source and reflect that a state agency, the Department of Child Support Services is actively participating in fraudulently manipulating records on behalf of Respondent giving false credits as support paid to Appellant in excess of a million dollars from the date of the original order from 1994. (People v. Harris (1984) 36 Cal.3d 36, 48, fn.3 ["We take judicial notice of the federal census. (Evid. Code, 452, suds (b), (c), and (h).)"]; Diaz v. Kay-Dix Ranch, et al. (1970) 9 Cal. App. 3d 588, 596, fn. 6 ["The Court takes judicial notice of these statistics from an

official government source. (Evid. Code, 452 (h), 454)"]

CONCLUSION

For the foregoing reasons and reasons set out in the prior motions to augment dated September 18th, 2009, March 18th, 2010, March 26th, 2010, motion to reconsider filed April 8th, 2010, memorandum of points and authorities and declaration of Lorna Roos on this motion to take judicial notice, Appellant respectfully requests that the court take judicial notice of Exhibits A-C.

Dated: April 12th, 2010

Respectfully submitted,

"s/"

Lorna Roos In Pro Per

Declaration of Lorna Roos, Appellant in support of Motion to take Judicial Notice to take evidence on appeal

I, Lorna Roos, declare as follows:

I am a layman and am not an attorney. I just discovered the evidence attached to the motions to augment dated September 18th, 2009, March 18th, 2010, and March 26th, 2010 should have been filed with the court of appeals as motions to take judicial notice to take evidence on appeal. I am apologizing for any inconveniences caused as I was poorly

advised by an appeals clerk to augment the record on appeal with motions to augment.

I had no idea I was a making a mistake by incorrectly filing motions to augment when they should have been judicial notice. It wasn't until I read the order from March 29th, 2010 and after the filing of a motion to reconsider this order on April 8th, 2010 that I learned the evidence attached to these motions to augment needed to be put on the record with a motion to take judicial notice to take evidence on appeal.

I would like the subpoenaed court records from Imperial bank showing the maker and off-set of the $531,561 included in the appellate record as the court now knows from the newly discovered evidence presented in the set-aside motion that this is a community asset not Respondent's mothers separate property as falsely claimed by Respondent. The subpoenaed court records are relevant to the issues raised on appeal.

In addition, the Court has fraudulently withheld subpoenaed court records from Appellant on Charles Schwab accounts. Appellate just learned from a bill sent from Charles Schwab that Charles Schwab had satisfied the subpoena sending the records to the court house whereby both Judge Kenneth Black and Judge Rudolph Diaz both failed to turn over these records to Appellant. Appellant requests these statements be included in the appellate Court record

as the records are relevant to the issues raised on appeal and it would avoid a miscarriage of justice.

The Charles Schwab statements prove Respondent has been unfairly hiding community assets and income from Appellant and that Respondent has been using multiple tax identification numbers and trusts that he failed to disclose to the Court whereby Respondent was able to procure fraudulent support orders and a judgment dated June 2nd, 2004 in the divorce because of the fraudulent concealment of assets, income, and material facts.

Also, Appellant should not have to wait any longer for justice, when the court fraudulently concealed these records from Appellant. Respondent should immediately forfeit the undisclosed accounts at Charles Schwas to include the defined benefit plan. Appellant is going to need a proper freezing order on all of Respondent's assets until the true marital estate can be accessed by a forensic accountant, which should be ordered on behalf of Appellant. Appellant requests all fees and costs on this case be awarded for Appellant because of Respondent's fraudulent concealment of assets, income, and material facts. Appellant would like to request the fraudulent judgment dated June 2nd, 2004 and all support orders be set aside in their entirety as they are now based on fraud. In addition, the court should order Respondent's tax returns be verified by the I.R.S., Appellant will need money for attorney, and will need full discovery

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Lastly, Appellant is asking the Court to include the fraudulent simple audit report from the Department of Child Support Services along with the previous sent records from Child Support Services, which include distribution checks showing arrears from DCSS, interest checks from DCSS (warrants), payments received v. payments issued along with individual payment history from DCSS, and distribution list statement from DCSS as all these documents clearly prove the audit Department of Child Support Services are aiding and abetting Respondent by fraudulently manipulating records to show Respondent is current on support payments when Respondent is in arrears of over a million dollars from the original order from 1994. The Department of Child Support Services are actively covering – up false credits given to Respondent as support paid to Appellant through their audit Department (which includes third party checks and checks from Exxon $10,421 and Mobil $14,332.90).

The distribution checks previously issued from DCSS do not lie as they clearly show Respondent was in arrears but now in this new audit Simple report from Feb. 2010, Respondent is fraudulently shown to be overpaid in the same months as Respondent was in arrears as evidenced by the distribution checks previously issued from DCSS.

Examples:

1.) Distribution check from DCSS dated 6-23-06 shows Respondent was in arrears, now in new audit

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simple report dated Feb. 2010 it shows Respondent is overpaid by $24,691.34 for the same month of 6-06. 2.) Distribution check from DCSS dated 4-18-07 shows Respondent was in arrears, now in new audit simple report dated Feb. 2010 it shows Respondent is overpaid by $32,170.34 for the same month of 4-07. 3.) Distribution check from DCSS dated 1-16-08 and dated 1-30-08 shows Respondent was in arrears, now in new audit simple report dated Feb. 2010 it shows Respondent is overpaid by $41,405.88 for the same month of 1-08.

In addition, Child Support Services is now applying previously issued interest checks on arrears owed as false credit for Respondent as support paid to Appellant in new simple audit report. Also, in this new audit performed from 4-2004 to present they are fraudulently including the prior months support payments from 2-2004 and 3-2004 as support paid for month of April. Respondent paid Feb and March support payments late and they were received in the month of April at DCSS. DCSS is fraudulently manipulating the records as these payments were made late and are for months of Feb. and March not April so, why are DCSS applying the payments to Aprils support due and applied to the arrears owed. See interest checks, distribution checks, DCSS support payment received v. payments along with individual payment history issued as DCSS is giving false credit as support paid for Respondent on:

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1.) Check # 7606488 for $10,270 for April when this check is for Feb support,
2.) Check # 7651754 is being applied to Aprils support due when this check for $4,152.88 is for interest payment on arrears owed,
3.) Check # 7714904 for $10,270 is being applied for Aprils support due when this check is payment for March support due,
4.) Also, a alleged NSF check is being accounted for in this audit as payment received for April when it is for the month of Feb. on an interest check previously issued see warrant S 7325387, which is fraudulent too.

As all these checks are being fraudulently manipulated and applied as payments towards Aprils support payments due and the false arrears of $20,504(which was never paid either). Appellant has never received any payments of arrears due as they have all been wiped clean by audit at DCSS, when the true arrears due totals over one million dollars from 1994 original order that has never been collected by DCSS.

At no time has DCSS allowed Appellant to participate in these fraudulent audits "theft by audit" and or let Appellant have access to her records. The Department of Child Support Services has accepted this latest fraudulent audit as valid and is actively participating in harming Appellant and

the children. This injustice needs to be stopped immediately and DCSS documents need to be

included in the appellate record as they address directly the issues on this appeal of "theft by audit". As Respondent claims in his RRB that DCSS is performing correct audits it is only fair that this motion is granted to take judicial notice to take evidence in that is vital and necessary for the court to have a proper appellate record on appeal to avoid a complete miscarriage of justice.

Again, Appellant apologizes for any inconvenience. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated 4-12-2010

Respectfully submitted,

_____

Lorna Roos

Exhibit "A"

(Not attached wrongly Sealed Subpoena) Attached is evidence of subpoena being satisfied by Imperial Bank showing maker and off-set of cashier's check for $531,561, which is a un-adjudicated community asset.

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Exhibit "B"

Copy of subpoenaed undisclosed Charles Schwab Statements LA 7623-4155 and 9069-2761 attached, which were fraudulently withheld from Appellant by the court. The court records evidence reveal Respondent has been hiding community assets and income. In addition, Respondent is using multiple tax identification numbers, trusts, and pension accounts (defined benefit plan) to hide marital assets and income.

Exhibit "C"

Copy of the fraudulent simple audit report from the Department of Child Support Services along with the previous sent records from Child Support Services, which include distribution checks showing arrears from DCSS, interest checks from DCSS (warrants), payments received v. payments issued along with individual payment history from DCSS, and distribution list statement from DCSS as all these documents clearly prove the audit Department of Child Support Services are aiding and abetting Respondent by fraudulently manipulating records to show Respondent is current on support payments when Respondent is in arrears of over a million dollars from the original order from 1994.

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Certificate of Interested Parties

Appeals Case #B216438 Roos v. Roos
(Certificate of Interested Parties)
ATTACHMENT "2"

(1) Tom Girardi Tom Girardi (accusations of Insurance Fraud)

(2) Mr. John Karns (their law firm, authored the fraudulent Trust document- "Karns and Karabian")

(3) Mr. Walter Karabian (their law firm, authored the fraudulent Trust Document - "Karns and Karabian")

(4) Mr. Walter Lack (close partner and business associate of Tom Girardi)

(5) Mr. David Kenny (author of the fraudulent Will and Trust)

(6) Don Levin (Money laundering of embezzled funds with Mike Roos and Mike Roos' mother including DSL construction and First Regional Bank)

(7) Rick Marcus (his CPA firm Goren, Marcus, Masino, and Marsh aided in concealing and embezzling assets and income)

(8) Frederick Muller (Authored fraudulent starker exchange agreement while at Grayson, Givner, Booke, and Silver)

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(9) Arnold Forde (collusion and concealment of sham loans with Mike Roos and Mike Roos' mother/ money laundering)

(10) John Burton (concealed loan with Mike Roos)

(11) Melissa Roos Walker (in possession of embezzled assets through sham trust).

Additional Information Regarding Conflicts

Request for Change of appeal from division three to another division because there is reasonable basis to believe that existing judges may not be able to be impartial. Appellant wishes to obtain Judges to hear the appeal who have the ability to be fair, impartial and unbiased, and where there are no questions about conflict of interest or the appearance of impropriety.

The crux of this entire case is allegations of fraud and embezzlement by Mike Roos. Importantly, Mike Roos has not acted alone. He has had help from others in committing these criminal acts. The criminal acts of these other individuals are also at risk of exposure and these individuals have substantial risk of potential criminal prosecution for their behavior.

It has just come to light that some of Justices of the Appeals Court have relationships with individuals who are accused of aiding Mike Roos in the fraud and embezzlement. The charges against these individuals are serious and these individuals have

great incentive to use their influence and personal relationships to keep their criminal behavior from being exposed in court. These individuals include Mr. Tom Girardi (accusations of Insurance Fraud), Mr. John Karns and Mr. Walter Karabian (their law firm, authored the fraudulent Trust Document - "Karns and Karabian"), Mr. Walter Lack (close partner and business associate of Tom Girardi), Mr. David Kenny (author of the fraudulent Will and Trust), Don Levin (Money laundering of embezzled funds with Mike Roos and Mike Roos' mother including DSL construction and First Regional Bank See Exhibit "A"), Rick Marcus (his CPA firm Goren, Marcus, Masino, and Marsh aided in concealing and embezzling assets and income), Frederick Muller (Authored fraudulent starker exchange agreement while at Grayson, Givner, Booke, and Silver), Arnold Forde (collusion and concealment of sham loans with Mike Roos and Mike Roos' mother/ money laundering), John Burton (concealed loan with Mike Roos), and Melissa Roos Walker (in possession of embezzled assets through sham trust) .

Appellant is sincerely requesting an unbiased courtroom where ALL valid evidence is allowed to see the light of day. To date, this has been prevented without valid reasons and has resulted in a miscarriage of justice. Judges who have relationships with individuals connected to this case should validly be disqualified.

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A critical piece of evidence that implicates Mr. Tom Girardi in both insurance fraud and embezzlement is payment of $531,561 in April of 1996. The payment is believed to be from an insurance company as payment to Leslie Stevenson Reilly from a car accident where she suffered a broken neck. The payment was fraudulently stolen and embezzled to the mother of Mike Roos by Tom Girardi and Mike Roos. This evidence that will conclusively reveal the criminal behavior of Mr. Tom Girardi (who represented Leslie Stevenson Reilly in the car accident) in fraudulently transferring the $531,561 payment to the mother of Mr. Mike Roos. Evidence of this payment was originally subpoenaed by Appellant and satisfied by Imperial Bank in December 2000 (revealing the maker of the check and the offset). This evidence was improperly sealed by the Judge on the case (Judge Black) under fraudulent testimony by Mike Roos, and by what is believed to be pressure and improper influence by Tom Girardi. [Exhibit "B"] This critical evidence has never seen the light of day. It is smoking gun evidence of fraud and embezzlement and no valid reason has EVER been presented to keep it sealed. The sealing of this important evidence was judicial misconduct by Judge Kenneth Black. His misconduct has prevented crucial evidence from being presented in court that would reveal the true source of funds of assets in dispute, and criminal behavior by Mike Roos and Tom Girardi.

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Both Mike Roos and Tom Girardi are desperate to keep this evidence from coming to light. It is believed that a full investigation on the matter of insurance fraud committed by these two individuals will reveal additional criminal behavior. Shortly after the evidence was subpoenaed (that lead to the discovery of this $531,561 of embezzled assets), an armed gunman broke into Appellants home in February 2000 in the early morning hours, and a narrow escape was made. [Exhibit "C"]

One important aspect alleged by Appellant in this case, is that powerful and influential people have been able to cut back room deals with Judge Black, and other federal and state agencies (such as with the DMV, LAPD, and FBI agent L.J. Connelly) to prevent smoking gun evidence from seeing the light in an open courtroom.

One example of this is presented in the following three paragraphs.

In what appears to be a deliberate act, a serious rear-end collision occurred into the car occupied by Appellant and Leslie Stevenson Reilly while they were stopped at a stop-light (July 28th, 1998), creating very serious life-threatening injuries. The driver of the car (who is now the wife of Tom Girardi) was Ms Erika Giovanisci. She produced a false driver's license at the scene by the name of Bitty Schram. [Exhibit "D"] Mr. Tom Girardi immediately

came to Appellant and Leslie Stevenson Reilly after the crash and signed them up for legal representation on the accident (without being called) and without revealing that he had a personal relationship with Ms Erika Giovanisci.[Exhibit "E"] Mr. Girardi subsequently filed false paperwork on the intentional car crash with the superior Court, fraudulently claiming that a Leslie Schram was the driver of the vehicle, and forging a completely false date of the accident. [Exhibit "F"]

Shortly after the armed gunman broke into the house of Appellant (listed above), an FBI agent (LJ Connelly) advised Appellant to check on all outstanding lawsuits in order to try to better understand who had motive to cause harm. It was only by checking Superior Court records was it revealed that Tom Girardi had filed false information with the court. Leslie Stevenson Reilly immediately confronted Tom Girardi with evidence of false information being submitted to the court. After the confrontation, Tom Girardi immediately terminated the client-attorney relationship, and rapidly married Ms Erika Giovanisci within a few days, in what appears to be a deliberate action to provide Erika Giovanisci with immunity from any legal attempt to cause her to testify against him.

Erika Giovanisci (the now wife of Mr. Tom Girardi) subsequently fraudulently renewed a drivers license in the name of Bitty E. Schram with the photo of Erika Giovanisi on July 10th, 2000 at the Hollywood

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DMV (where Tom Girardi has contacts) in an attempt to fraudulently pass herself off as Bitty E Schram. This occurred just days before a scheduled deposition regarding the deliberate car crash. [Exhibit "G" reveals the photograph of Erika Giovanisci on the renewal drivers license of Bitty Schram]. A detective from Northeast police department LAPD by the name of Tony Stevenson [PH 1-213-847-4272] subsequently requested thumbprint verification from the DMV regarding the true identity of the person on the picture of driver's license in the name of Bitty E. Schram. He also requested thumbprint verification of the driver's license of Erika Giovanisci (now Erika Girardi) in order to compare the two. To-date the DMV has refused to provide this thumbprint verification to Detective Stevenson. [See Exhibit "C" above] This evidence would convincingly reveal the fraud perpetrated by Erika Giovanisci and Tom Girardi in the staged car crash. Why the thumb print verification was never provided to Detective Stevenson? Who prevented this? Why? The most logical answer is that Tom Girardi pulled strings and prevented it.

The reason that this request of the court to change divisions is due to information received last week at the memorial service of Richard Traweek. Mr. Traweek was a former employer of Appellant and Leslie Stevenson Reilly (for six years) who was

murdered by an unknown gunman on Oct. 26th, 2009. [Exhibit "H"] Mr. Traweek was the founder of Traweek Investments a fully licensed securities brokerage firm. The memorial was held on November 18th, 2009 at Bel-Air Country Club, and at the memorial, an individual who wants to remain confidential, communicated information to Appellant that Mr. Tom Girardi "has some very dear friends on the appeals court Division three" where Appellant's case is being heard.

It is worth stating that Mr. Richard Traweek, testified on behalf of Appellant in the child custody case where Mike Roos subsequently lost all rights to his children. At the time of the child custody case Mr. Richard Traweek made statements that he feared for his life in testifying against Mike Roos. Additionally, Mr. Richard Traweek was also a former client of Mr. Girardi's (at Crane and Girardi) until a bitter dispute occurred that resulted in Mr. Traweek leaving the firm to be represented solely by Mr. Dick Crane at his new firm. As a result of these two disputes both Mike Roos and Tom Girardi are believed to be persons-of-interest in the murder of Mr. Richard Traweek. This can be verified by contacting Detective Michael Pelletier at LAPD West Los Angeles Homicide Division at PH [310-444-1520].

Appellant believes and alleges that discovery in many areas was improperly denied and prevented by judicial misconduct that was driven by back room

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deals cut by self interested individuals who were acting in collusion in criminal activities perpetrated by Mike Roos. One such area includes the potential embezzlement and concealment of a commission paid in 1997 on the sale of Sam Gilbert's forfeited 36.45% interest in the Bell Gardens Bicycle Club. Appellant was wrongfully denied discovery by Judge Kenneth Black during the divorce proceedings and prevented from knowing if a commission was ever paid. The Bicycle Club was seized by the government in a Rico case and the government took control of the club in Nov. 1993 and tried to sell the asset in 1994 via the United States Marshall Service / Resolution trust company. Leslie Stevenson Reilly acquired the data and information from the United States Marshall Service and solicited investors in 1994. Appellant and Leslie Stevenson Reilly being registered brokers sent out packages to about dozen investors and learned Richard Traweek was also actively seeking investors to participate in the bidding process being taken under seal in July/August 1994. Appellant and Leslie Stevenson Reilly originally pitched Tom Girardi on investing in the Bicycle Club in July 1994. Then, Tom Girardi's partner and very dear friend Walter Lack approached the United States Marshall Service directly in November 1995 to purchase the interest in Bicycle Club. Appellant was told no sale occurred and no commission was paid by George Hardie and Harry Richard (the successor trustee) who were both General Managers of the club.

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However, Appellant has just learned that apparently Walter Lack formed an LLC and eventually purchased the Sam Gilbert interest in the Bicycle Club sometime in 1997. Appellant and Leslie Stevenson Reilly never received a commission and or any compensation for this sale but suspect Mr. Mike Roos did.

Appellant is very concerned there might be conflicts of interest involving some of the Justices because of Mr. Tom Girardi. After being warned at the memorial service of Mr. Dick Traweek, Appellant, Lorna Roos , did research on the internet looking for potential links and or conflicts of interest involving the Justices assigned to Division three. This research appears to reveal conflicts involving at least two of the Justices on the division three of the Appeals Court and Mr. Tom Girardi. [Exhibit "I"] These include Justice R. Aldrich and Justice Walter Croskey. Both have appeared on Mr. Tom Girardi's self-serving radio show that promotes all these individuals as "Champions of Justice". This is simply one of many tactics that Mr. Tom Girardi has used to ingratiate himself to judges and form strong personal relationships. Additional tactics used by Tom Girardi to develop relationships with judges include paid Mediterranean cruises, memorable lunches at PDC, and giving expensive Christmas gifts.

A critical issue in this case is accusations of judicial misconduct by both Judge Black and Judge Diaz that

may be due to conflicts of interest and improper influence by individuals such as Mr. Tom Girardi.

Recent actions by Justice Patti Kitching appear highly improper and raise the same suspicions. These include:

1. Suspiciously DEFERRING the ruling on a Motion to Augment record filed by Appellant on 9-18-09 to include the improperly sealed evidence regarding the embezzled $531,561 assets. It is important to state that Respondent Mr. Mike Roos never filed ANY paperwork opposing the granting of the motion. Given the fact that the motion was not opposed, why has ruling on this important evidence been delayed?
2. The improper granting of a second extension for Respondent to file a brief – when Respondent was already in default to file brief, and when Respondent failed to state ANY reason for the default. Failing to state a reason for default and good cause for extension is a matter of law that legally prevents the granting of an extension.

Lastly, it's important to state that Mr. Mike Roos, Mr. John Karns, and Mr. Thomas Girardi are extremely close friends and there is a bit of "honor among thieves" at work here. They all play golf together on the weekends at Lakeside Country Club where each are members. Karns and Karabian

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created the fraudulent Will and Trust, and subsequently represented Mr. Mike Roos in his mother's fraudulent probate estate proceedings where Mr. Mike Roos took possession of the embezzled assets.[Exhibit "J"] Mr. John Karns was paid $25,000 in May of 1996 out of community assets that Appellant believes is evidence of payment for legal services rendered in the creation of the fraudulent Will and sham Trust (created on June 13th, 1996) that were subsequently used to embezzle and fraudulently transfer community assets and separate property of Appellant's and Leslie Stevenson Reilly's to the mother of Mike Roos. In addition, Mr.Walter Karabian is a personal friend of Mike Roos' and advised him through his criminal investigation involving the Patrick Moriarty scandal. Mr. Karabian is aware of false testimony by Mike Roos regarding the lack of financial means (by his parents) to purchase an investment in Commerce Casino Card Club, that is part of the disputed assets in this case.

I declare under penalty of perjury that the foregoing is true and correct. Executed at Los Angeles, this 24th day of November 2009.

"s/"

Lorna Roos In Pro Per

Appendix R

Docket (Register of Actions)
Roos v. Roos
Division 3
Case Number B216438

Date	Description	Notes
06/02/2009	Notice of appeal lodged/received.	n/a 5/22/09 Lorna Roos
06/02/2009	Default notice sent-appellant notified per rule 8.100(c).	Party: Lorna Roos
06/16/2009	Received:	letter from aplt re: appeal filing fee was paid to SCLA on 5/22/09
06/17/2009	Civil case information statement filed.	
06/17/2009	Certificate of interested entities or persons filed by:	Party: Lorna Roos
06/17/2009		

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Filed letter from:
aplt re: incorrect information on superior court docket
06/19/2009
Filing fee.
rcvd via SCLA county run.
06/25/2009
Filed document entitled:
Notice to Request Exhibits held by Los Angeles Superior Court Party: Lorna Roos
07/07/2009
Received:
letter from Aplt addressed to SCLA re: request to locate records for case # BD202859
07/10/2009
Default re: 8.130(b) rptrs fees not deposited rcvd. dtd.
& failure to deposit $100 appeal fee, dated 6/9/09 SCLA.
07/14/2009
Appeal dismissed per rule 8.140(b).

07/20/2009
Received:
ltr from Aplt addressed to SCLA re: Aplt never received notice that Aplt was in default pursuant to

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CRC 8.130(b) and failure to deposit $100.00 processing fee. Aplt is requesting a formal inquiry as to the defaults.

07/21/2009

Received document entitled:

Notice Vacating Default from SCLA - deposit for CT & RT fees paid; dated 7/21/09.

07/21/2009

Order of dismissal vacated.

It appearing that through inadvertence and mistake by the Los Angeles Superior Court on July 14, 2009, this court dismissed the above-entitled appeal under Rule 8.140(b), for the appeal filed May 22, 2009. Now, therefore, it is ordered that the dismissal filed July 14, 2009, is vacated.

07/23/2009

Order filed.

The court has read & considered aplnt's notice to req exhibits held by the SCLA, filed on 6/25/09. The notice to req exh is hereby denied w/o prejudice to applnt's filing of a motion to amend the designation to include trial exhibits. Aplnt is directed to file a proper motion to amend the designation in this court pursuant to CRC 8.124(c).

07/24/2009

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Received document entitled:
ntc vacating default dtd 7/21/09 SCLA-fees for clerk's transcript and fees for reporter's transcript were paid
07/24/2009
Notice per rule 8.124 - with reporter's transcript.
ntc of desig filed 6/1/09 SCLA
07/28/2009
Certificate of interested entities or persons filed by:
Party: Lorna Roos
07/31/2009
Received:
cert. of interested parties (Lorna Roos). rec'd via SCLA court run on 7/31/09
08/04/2009
Notice per rule 8.124 - with reporter's transcript.
Aplnt lodged RT w/SCLA - transcripts forthcoming per ntc of desig filed on 6/1/09.
08/06/2009
Record on appeal filed.
R-1 (10 pgs)
08/07/2009
Record imaged.
Ikon
08/28/2009
Record imaged.

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From Ikon
09/08/2009
Appellant's appendix and opening brief filed.
Petitioner and Appellant: Roos, Lorna
Pro Per

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5 vols. appendix
09/11/2009
Filed proof of service.
amended to Appellant's Opening Brief & Appendix
09/18/2009
Motion/application to augment record filed.
(aplt.)
10/07/2009
Order filed.
The ruling on the motion to augment filed September 18, 2009 is deferred until the case is heard on the merits. (PK)
10/15/2009
Respondent notified re failure to file respondent's brief.

10/29/2009
Requested - extension of time

10/30/2009
Granted - extension of time.

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11/13/2009
Motion filed.
to reconsider the granting of extension of time to file respondent's brief, motion for restraining order and motion to order support order be put back in place with respondent's employer
11/23/2009
Opposition filed.
Respondent's opposition to appellant's motion to reconsider the court's having granted respondent's request for ext of time.
11/30/2009
Opposition filed.
Appellant's objection to Mr. Kenneth R. Nahigian's submitted opposition paperwork to the Court of Appeals objecting to motion to reconsider that was previously filed by appellant.
11/30/2009
Respondent's brief.
Respondent: Roos, Michael Y.
Attorney: Jordon Metz
11/30/2009
Default respondent/RPI; no certificate of interested persons filed.

11/30/2009
Request filed to:

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Respondent's request for extension of time to file respondent's brief to 12/31/09
11/25/2009
Certificate of interested entities or persons filed by:
Lorna Roos --Supplemental certificate of interested entities or persons
12/01/2009
Order filed.
Motion to reconsider the granting of extension of time to file respondent's brief, motion for restraining order and motion to order support order be put back in place with respondent's employer is denied. PK,C
12/03/2009
Certificate of interested entities or persons filed by:
CIP due by Respondent Michael Roos
atty. Nahigian for respondent
12/07/2009
Denied - extension of time.
Respondent's having been filed November 30, 2009, the applicaton for extension of time to file respondent's brief is denied as moot. Croskey & Kitching*
12/14/2009
Motion filed.
to strike the respondent's brief & extension of time to file appellant's reply brief after ruling on motion to strike
12/14/2009

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Requested - extension of time

12/17/2009
Filed proof of service.
to motion to strike filed 12-14-09
12/17/2009
Granted - extension of time.

12/28/2009
Opposition filed.
to motion to strike respondent's brief & motion also includes request for sanctions & motion to augment to include attached document as part of the record on appeal.
12/29/2009
Opposition filed.
to respondent's reply to appellant's motion to strike & respondent's motion to augment
01/05/2010
Order filed.
Appellant's motion to strike respondent's brief and request for sanctions filed December 14, 2009, is denied. Klein-Kitching*
01/05/2010
Order filed.

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Respondent's motion to augment the record on appeal filed December 28, 2009, is denied. (Klein-Kitching**)

01/11/2010

Appellant's reply brief.

Petitioner and Appellant: Roos, Lorna
Pro Per

01/11/2010

Case fully briefed.

01/25/2010

Errata filed to:

Appellant's reply brief (by permission of the court) (PK)

02/02/2010

Motion filed.

Appellant Lorna Roos's Motion for Calendar Preference for Oral Arguments February 9 and or February 10, 2010. (Filed with permission of the court)

02/08/2010

Order filed.

Appellant's motion for calendar preference filed February 2, 2010, is denied. J. Kitching

03/12/2010

Calendar notice sent. Calendar date:

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03/18/2010
Motion/application to augment record filed.
by aplt. (by permission of the court) (PK)
03/26/2010
Order filed.
IT IS HEREBY ORDERED that appellant's motion dated March 23, 2010, is ordered filed with permission of the court. The motion is filed as of the date of this order.
03/26/2010
Motion/application to augment record filed.
Appellant's motion with exhibits attached (filed with permission of the court. (Kitching)
03/29/2010
Order filed.
Having read and considered appellant's motions to augment filed September 18 2009, March 18, 2010 and March 26, 2010; IT IS HEREBY ORDERED that appellant's motions are denied. (Croskey, Acting P.J. & Kitching, J.)
04/13/2010
Order filed.
Appellant's motion for reconsideration of order issued 3-29-10 is filed with permission of the Court. The motion for reconsideration is denied. Klein-Kitching
04/13/2010

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Order filed.

Permission to file Appellant's Motion to Take Judicial Notice received April 12, 2010, is denied.
Klein-Kitching
04/14/2010
Mail returned and re-sent.

atty. Jordan Metz--notice issued 3-26-10 (address was correct)
04/14/2010
Cause argued and submitted.

05/10/2010
Filed letter from:

Respondent's letter request for a CD copy of oral argument. (Requested by Atty Metz)
CD mailed to Atty Jordon Metz on 5/11/10
06/23/2010
Opinion filed.

(Signed Unpublished)
The order is affirmed. Michael Roos is awarded costs on appeal. PK,K,C 7pgs. nfp
07/06/2010
Filed letter from:

Lorna Roos requesting copy of oral argument C.D.
C.D. mailed to Aplt Lorna Roos on 7/7/10 via UPS
07/08/2010
Rehearing petition filed.

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Appellant's petition for rehearing (includes request for judicial notice. Exhibits 1 -8 attached to petition)
07/12/2010
Petition for rehearing denied.
& the request for judicial notice is denied. PK,C
07/26/2010
Service copy of petition for review received.
Pet. Lorna Roos
07/26/2010
Record transmitted to Supreme Court.
1x4"
09/01/2010
Petition for review denied in Supreme Court.

09/16/2010
Remittitur issued.

09/16/2010
Case complete.

09/17/2010
Record returned from Supreme Court.
1x4"

Appendix S

Lorna Roos In Pro Per
1482 East Valley Rd., #305
Santa Barbara, CA. 93108
(805) 845-8395

COURT OF APPEAL, SECOND APPELLATE
DISCTRICT, DIVISION THREE
STATE OF CALIFORNIA

Lorna Roos	) Appeal No. B 216438
Petitioner and Appellant	)Superior No. BD 202859
v.	) MOTION TO STRIKE
Michael Y. Roos	) RESPONDENT'S
	) REPLY BRIEF
Respondent and Respondent)	
&	)
_____	)

APPROPRIATE SANCTIONS

Pursuant to rule 8.54 of the California Rules of Court, I, Lorna Roos, request this motion to strike Respondent Reply Brief in its entirety as the brief fails to adhere to the Rules of the Court and or Appellate Procedure. Also, Pursuant to the rule 8.276 of California Rules of the Court Appellant, Lorna Roos requests appropriate sanctions.

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I declare under penalty of perjury that the foregoing is true and correct. Executed at Los Angeles, this 14th, day of December, 2009.

"s/"

Lorna Roos In Pro Per

Appendix S

MEMORANDUM OF POINTS AND AUTHORITIES
MOTION TO STRIKE RESPONDENT'S ENTIRE BRIEF SHOULD BE ORDERED TO ALLOW APPELLANT
TO RECEIVE FULL AND FAIR REVIEW

Pursuant to Rule 8.54 of California Rules of the Court, Appellant, Lorna Stevenson Roos, files this motion to strike Respondent's Reply Brief in its entirety because the brief does not conform to the requirements of the court rules and appellate procedure. The brief unlawfully attempts to expand the record with new issues, arguments, and evidence that are not part of the record.

The brief is in direct violation of the rules of the court as it contains impermissible and inadmissible matter drawn from outside the record under Civil Code of Procedure 435-437, specifically 436(a)(b). Additionally each expansion of the record is absent of required citations to the record and therefore should be stricken per California Rules of the Court, rule 8.204(a)(1)(c). *(City of Lincoln v. Barringer (2002) 102 Cal.App.4th 1211,1239,fn. 16[126 Cal.Rptr. 2d 178].)* California rules of the court are clear that every document and factual argument cited on appeal must actually have been presented in the court below and every reference to a matter in the appellate record must be supported with a citation to

the volume and page number of the record where the matter appears. When non-record issues, arguments, and evidence are raised in a reply brief, the appropriate remedy by the court is to strike it. As documented below, the reply brief submitted by Respondent is riddled with violations of the fundamental rules of the court and should be stricken.

Importantly, what is NOT RESPONDED TO in the reply brief is the most damaging to the Respondent. The reply brief fails to address the key issues of the appeal such as: new evidence exposing non-disclosure of financial assets by Respondent, Mike Roos; judicial misconduct by Judge Diaz and Judge Black in preventing discovery of critical evidence; fraudulent credits in the amount of $924,000 granted to Respondent, Mike Roos, from behind closed doors by Judge Black and District Attorney/Department of Children and Family Services (theft by fraudulent audits). The audits and orders that were used to grant these fraudulent retroactive credits to Mike Roos have NEVER been provided to Appellant despite numerous written requests to the Department of Children and Family Services and the District Attorney. To-date, both the District Attorney and the Department of Children and Family Services have unlawfully denied Appellant access to the records of how these fraudulent credits were granted. Judge Black improperly refused to

hear the issue (of theft by audit) when presented with this information in court by Appellant. Denial of financial resources to Appellant has resulted in an unfair playing field that is biased against appellant, and has resulted in self-representation before the court. The reply brief by Respondent is silent on these key issues of the appeal.

From 5/22/09 until 11/30/09 Respondent had adequate opportunity to designate the record for this appeal as per rule 8.121. Respondent also had ample opportunity to designate an appendix and chose not to. Instead of abiding by the rules of the court, Respondent now chooses to use his response brief as an attempt to expand the record with issues, arguments, and new evidence that ARE NOT part of the record. This behavior by Respondent is a clear violation of the rules of the court. "if it is not in the record, it did not happen". (*Protect Our Water v. County of Merced, 110 Cal. App. 4th 362,364 (2003).*)

Respondent had the opportunity in the lower court (in front of Judge Diaz) to respond to the issues, arguments, and evidence presented to the court by Appellant on 10/28/08 (and eventually served on an evasive Respondent on 1/16/09). Despite being granted several months to respond (until 4/27/09), Respondent did not file ANY OBJECTIONS OR DENIAL TO THE CHARGES, nor raise ANY new issues to the court of judge Diaz (such as his

newfound desire to: object to the new evidence, claim statute of limitations on support orders and fiduciary duty, allege re-litigating the decision, allege recycling old arguments, and attempt to explain concealment of material facts on the sale of the Kenilworth Avenue Family home). One can only speculate regarding the motives of Mike Roos for failing to respond to the new evidence and serious charges of fraud, embezzlement, and concealment of assets. Appellant believes that Respondent deliberately failed to reply to these charges out of his desire to minimize evidence and testimony that would only further incriminate himself. Regardless of why Respondent failed to respond, this reply brief cannot now be hijacked and used to raise NEW issues, arguments, and objections to improperly expand the record. Such behavior is a flagrant abuse of the rules and procedures of the court. "A party may not by–pass the fact finding process of the lower court and introduce new facts in its brief on appeal." *United States v. Allen, 522 F.2d 1229, 1235 (6th Cir. 1975)* (holding that an appellate court cannot consider material in a brief that is not part of the record).

In his statement of facts Respondent presents that child custody was decided by stipulation in March of 2000. This portrayal by Respondent is fraudulent and misleads the court about significant facts on child custody. This portrayal is unsupported by any valid factual evidence. Child custody was decided in

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April 23rd 2004, and it DID NOT occur by stipulation. Any investigation into the true facts and evidence will reveal that Respondent lost custody of his children in a backroom deal with Judge Black, the D.A., and L.A.P.D., whereby Mr. Mike Roos was forced with the hard choice to either give up all rights to his children or face prosecution for child abuse. The catalyst for this backroom deal was a 911 call from an independent party regarding allegations of child abuse by Mr. Mike Roos involving his youngest child while under his sole care. A subsequent police report on the incident included photos of the abused child. Department of Child Support Services was also involved and wanted Mr. Mike Roos criminally charged. Faced with potential jail time, Mr. Mike Roos unilaterally relinquished all parental rights to his two children at an emergency ex-parte hearing.

The brief must set forth all arguable issues, and contain citations to the appellate record as well as appropriate authority. (*People v. Barton (1978) 21 Cal. 3d 513, 519; Harris, supra 19 Cal. App. 4th at p. 714.)*

The Violations of the rules of the court are as follows:

A. Enlarging the record through the introduction of non-record evidence and New Issues and New Arguments never raised in the lower court:

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1. Page ii & Page 9, 11 introduces new *statute of limitations claim on fraudulent support orders*

2. Page ii, iii, & Page 9, 20,21 raises new *statute of limitations claim on non-disclosure of assets*

3. Page ii & Page 9, 11,18,21,27 introduces new allegation of "*recycles old arguments*"

4. Page ii & Page 9, 11, 21 introduces new *questions on the discovery of new evidence* on concealment of assets by Respondent that he failed to disclose in the 2004 trial (such as the Roos Family Living Trust that he owned as a co-trustor)

5. Page ii & Page 10, 20 introduces new allegation *community drained assets from Roos Family trust*

6. Page iii Page 22, 23 introduces new issues *regarding a value of Kenilworth in 2002 ???*

7. Page iii Page 24, introduces allegations that *discovery was not denied*

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8. Page iii Page 25 introduces new information on why *Respondent didn't respond to set aside motion*

9. Page iii, Page 18, 27 introduces *a new cross appeal claim* that Appellant has no right to be heard on appeal and there was no abuse of discretion

10. Page iii,20,32,33,34,35,36,&37 introduces new (false and misleading) information that an actual trial occurred before judge Diaz that included witnesses, written testimony, conspiracy theories, inflammatory language, and Respondent's alleged influence with the court. No such trial occurred.

B. Missing Citations:

Pages:
2,3,8,9,10,11,12,13,14,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36,&37

C. False Citations:

Pages:
3,6,7,9,10,15,19,20,21,22,23,24,25,26,27,29,30,&31

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D. Misrepresenting the Facts:

1. Page 2 stipulation/child custody completely false

2. Page 32-37 no trial, no testimony, no witnesses in the court of Judge Diaz

3. Page 4,5, falsely claims Appellant got Guideline support orders when no tax returns were given and Respondent concealed assets and committed perjury on every single income and expense statement
4. Page ii, 18 falsely reframes Appellants appeal to be an appeal on a "Decision of 2004" rather than the 4/27/09 denial by Judge Diaz on set aside motion of Judgment dated 6/4/04.

E. Confidential Inadmissible Evidence that requires prior judicial authorization:
Page 1 & 2 Kay Bathurst report

F. Introduction of disrespectful, scandalous, and abusive language:
Page 1,2,6,7,8,10,26,27,31,32,36,& 37

To include: Exhibit "B" Reproduction of Respondent's Reply Brief showing a line drawn through the

portions to be stricken from the record in violation of the California Rules of the Court and Appellate Procedure listing the violations that apply as stated above from A-F on each page.

Respondent includes a confidential report (Kay Bathurst report) on the very first page of his brief, which is inadmissible because it not part of the record AND because it is Confidential. Any Confidential information requires judicial notice. This has not occurred. Additionally, the fact that the report was paid for by Respondent, is disrespectful and scandalous to Appellant, and is intended to bias the court makes the magnitude of the infraction even more serious. Appellant requests appropriate sanctions for the unethical behavior of Mr. Kenneth Nehigian and Mr. Jordan Metz.

"An attorney who files a brief which contains disrespectful, scandalous, or abusive language directed against courts, officials, or litigants violates a statue requiring attorneys to maintain the respect due to courts and judicial officers, commits a reprehensible breach of duty, and is guilty of contempt of the appellate court." (*4 Cal. Jur.2d 322, Appeal and Error, 486)* Respondent's attorney Mr. Jordan Metz knowingly commits the violation stated above over ten different times (See RRB page 1,2,6,7,8,10,26,27,31,32,36,& 37).

Appendix S

To include: Declaration of Lorna Roos in support of motion to strike. Exhibit "A"

In closing, Appellant asks the court to make appropriate sanctions and strike Respondent's Reply brief in its entirety.

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct.

Respectfully submitted,

"s/"

Lorna Roos In-Pro Per

82 (3)

Supreme Court, U.S.
FILED
FEB 16 2011
OFFICE OF THE CLERK

No. 10-707

IN THE
Supreme Court of the United States

LORNA ROOS,

Petitioner,

v.

MICHAEL Y. ROOS,

Respondent.

On Petition For Writ Of Certiorari
To The
California Court Of Appeal,
Second Appellate District, Division Three

PETITION FOR REHEARING

LORNA ROOS IN PRO PER
1482 East Valley Road, #305
Santa Barbara, CA 93108
(805) 845-8395

LIST OF ALL PARTIES TO THE PROCEEDINGS

Pursuant to Rule 14.1(b), the parties here and in the proceeding in District Court is Petitioner, Lorna Roos, and Respondent, Michael Y. Roos. Pursuant to Rule 12.4 Petitioner's twin-sister, Leslie Stevenson Reilly is joined here within to this petition for certiorari. The trial court failed to join Leslie Reilly previously in violation of the law when she was tied to many financial transactions and interests of the community estate. The trial court failed to award Petitioner's twin-sister, Leslie Stevenson Reilly any of her separate property contributions made to the community and her separate investments made into Sacramento property (diverted to pay for the investment made into Commerce Casino Card Club). Leslie Stevenson Reilly is now being joined to this case as her separate property interests need to be protected, adjudicated, and awarded to her.

RULE 29.4 (a) & (c) FILING AND SERVICE OF DOCUMENTS; SPECIAL NOTIFICATIONS;

(a) May apply for criminal prosecution: service made on the Solicitor General of the United States, Room 5614, Department of Justice, 950 Pennsylvania Ave., N.W. Washington, D.C. 20530-0001

(c)May apply for criminal prosecution: service made on the Attorney General of the State of California

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None,

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None,

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None

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No. 10 -707

IN THE SUPREME COURT OF THE UNITED STATES

October Term 2010

LORNA ROOS,

Petitioner,

v.

MICHAEL Y. ROOS,

Respondent.

PETITION FOR REHEARING

PETITION FOR WRIT OF CERTIORARI TO THE COURT OF APPEAL OF THE STATE OF CALIFORNIA, SECOND APPELLATE DISTRICT, DIVISION THREE

Petitioner Lorna Roos respectfully prays that a Writ of Certiorari issue to review the decision of the California Court of Appeal entered on June 23rd, 2010.

PETITION FOR REHEARING

Pursuant to Rule 44.1 Petitioner respectfully petition this court for rehearing.

INTRODUCTION

The underlying issue herein under review is that Respondent failed to disclose assets and income at time of dissolution of marriage, disclosure, and judgment as required by law. A significant amount of documentary evidence was filed, served on opposing counsel, and submitted with the court, and was designated on appellate record without objection. The undisputed evidence reveals Respondent gave false testimony, misrepresented material facts, failed to disclose concealed EIN numbers, trusts, and California Commerce Club interest whereby this same evidence proves Respondent knowingly violated mandatory disclosure requirements and breached fiduciary duties at the time of dissolution of marriage, judgment, and support orders. The lower court failed to set aside divorce judgment and support orders as required by law.

The new evidence and material facts on this case BD202859 clearly reveal the existence and ownership of concealed assets and income at time of dissolution marriage and judgment. This concealment of assets and income by Respondent prevented Petitioner from fully participating in proceedings.

Respondent and Respondent's attorney presented zero evidence and no superior evidence and or any evidence to the contrary to dispute Petitioner's evidence. However, Respondent was able to keep secure the fraudulent divorce judgment, fraudulent support orders, and false credits on an arrearages D.A. case through audit department at Children and Family Support Services (Petitioner was never given a chance to participate in these audits conducted on behalf of Respondent) without penalty on appeal.

Petitioner's petition for rehearing argues that the court has failed to fully consider issues and evidence presented by Petitioner. First, the lower court ignored the evidence presented by Petitioner in "an abuse of discretion". Then, the appeals court improperly excluded the evidence (that was designated on appellate record according to California Rule 8.124 as Appellant's Appendix) from consideration on this appeal in another "abuse of discretion." Both courts have violated the Fourteenth Amendment, Petitioner's rights to due process as they failed to look at the evidence. The court has granted Respondent full and fair opportunities to present his arguments and objections but not that of Petitioner. Petitioner's evidence on the appellate record was unlawfully eliminated by the appeals court opinion for technical violations / objections that were never raised in lower court at time of judgment, proposed, and or briefed (in violation of California Government Code section 68081 and Federal Rules of Appellate Procedure Circuit, Rule 10). Petitioner was given no chance to

obliterate these objections raised by the erroneous appeals court opinion.

Respondent presented no evidence of disclosure and no evidence to the contrary to dispute Petitioner's evidence of non-disclosure and concealment of assets and income and breach of fiduciary duties yet shockingly the court has ruled

in Respondent's favor preventing Petitioner due process, an equitable divorce judgment, and support orders.

STATEMENT OF THE CASE

This appeal arises out of a cause of action in Family Court filed in the Superior Court of Los Angeles County by Lorna Roos, in her own right and on behalf of her children, Caroline Roos and Catherine Roos, and her twin sister, Leslie Stevenson Reilly. While conducting discovery for a higher support order hearing Petitioner learned from newly discovered evidence that Respondent had misrepresented material facts and concealed assets and income from Petitioner and the court during all prior divorce proceedings and support order hearings. This documentary evidence showed Mike Roos committed fraud and perjury (as stated under California Family Code Section 2120-2129; 2120, 2121, 2122 (a) & (b), and as set forth in Sections 721, 1100, and 1101 of the Family Code, when the breach falls within the ambit meaning 3294 of the Civil Code) whereby it revealed Mike Roos gave false testimony (lied under oath) in court and it also revealed Mike Roos provided Petitioner and the court with false financial declarations (omitted assets and

income) during the divorce proceedings and support order hearings. In addition, this new evidence exposed Respondent had knowingly registered concealed assets using undisclosed EIN numbers and undisclosed trusts.

Respondent kept concealed the fact that he was a co-trustee of a trust and fraudulently misrepresented key material facts during divorce proceedings whereby this new evidence reveals he owned and created this trust during the marriage to divert and embezzle assets.

Had these material facts, assets, and income been known by Petitioner at time of disclosure the divorce judgment and support orders would have been different as they are based on false testimony and false declarations of disclosures supplied by Respondent.

Additionally, Respondent learned how to embezzle money through audit at Child Family Support Services Dept. whereby Respondent was given fraudulent credits on support order arrearages case in the amount of $924,000+ with the district attorney by requesting audits without Petitioner's participation and or knowledge. Petitioner immediately filed a motion to set aside the divorce judgment and all support orders and for attorney fee's along with a freezing order requesting a new trial, discovery, forensic accountant, and for adjudication/ forfeiture of the concealed assets and income that the new evidence revealed. Petitioner requested the evidence of fraud, perjury, and judicial negligence and or misconduct be turned over for

criminal investigation which included the false credits given through audit department at Children and Family Support Services.

Petitioner's motion sought to set aside the divorce judgment of June 4th, 2004 based on allegations of newly discovered evidence, trial court committed judicial negligence, and or misconduct in permitting Respondent to turn over his final

financial after the first day of trial had occurred (violated 45 day rule in direct violation of California Family Code Section 2105 Petitioner requested a mistrial yet Judge Black refused Appendix "B" transcript 4-27-2000 hearing). More importantly, Respondent was permitted to turn over a financial declaration (Appendix "D") at hearing of 4-27- 2000 whereby Respondent fraudulently added a 6th page to his original final financial filed in trial brief on 3-9-2000 (Appendix "C") without Petitioner's knowledge and or consent this materially affected the outcome of the first trial. Petitioner was not granted discovery to either of these two financial declarations of disclosure filed by Respondent. Additionally, the court permitted Respondent to violate California Family Code Section 3552 (a) in not having to turn over tax returns (Petitioner subpoenaed Respondent's tax returns and the court refused to hear Petitioner's In Contempt motion filed on this matter). Also, the court failed to provide a statement of decisions in violation of California Code of Civil Procedure 632 (Petitioner requested one in writing prior to judgment in her trial brief that is missing from court docket), and failed to

provide Petitioner with financial resources to hire an attorney.

All requests and motions filed by Petitioner for a new trial were denied by the Superior court of Los Angeles County with orders finally being entered on April 27th, 2009 by Judge Diaz which was well over 6 months from the original motion having been filed on 9-29-2008 in Judge Black's courtroom in Long Beach, California.

Furthermore, Judge Kenneth Black and Judge Rudolph Diaz, of which both were informed that false credits were given to Respondent in the amount of $924,000.+ on support arrearages case owed at the D.A and never paid by Respondent and that Respondent was getting more false credits through the audit department at Children and Family Services further harming Petitioner and the children. The false credits given to Respondent were never dealt with and or paid by Respondent.

The Children and Family Services audit dept has conducted many audits on behalf of Respondent without Petitioner's knowledge and or input in which Respondent has received additional false credits by audit. Respondent learned "theft by audit" .

The facts underlying this case are quite simple. Petitioner will set forth those facts herein as simplistically as possible and only to the extent necessary for the issues raised on this Petition for rehearing to be granted. In order to show the oversimplification of this case Petitioner has included Respondent, Mike Roos' testimony from first day of trial 3-9-2000 Appendix "A" (Respondent

clearly states he owns no California Commerce Club , no card club interests, and that no one is holding a interest for him: None ,None, None,) as this trial day testimony has been eliminated from the facts of the appeals court opinion and Petitioner's evidence of K-1 form Michael Y. Roos ownership of Commerce Casino Club year 2004 Appendix "H", Ownership of Roos Family Living Trust Malissa W. Roos Estate Tax Return Schedule G lists Michael Y. Roos as a co-trustee Appendix "G", ownership undisclosed Roos Family Living Trust main asset Schedule "A" 20 shares California Commerce Club Appendix "L" - as all this evidence has been eliminated from the appeals court opinion and clearly reveals Respondent, Michael Y. Roos violated his mandatory disclosure requirements and breached his fiduciary duties at time of disclosure and judgment there should be a petition for rehearing granted to avoid a complete "miscarriage of justice" on this case.

The facts in the appeals court opinion are clearly erroneous as trial dates March 9 and 10th of 2000 have been omitted from appeals court opinion as testimony from first day of trial reveals Respondent lied under oath about the ownership of Commerce Casino Club interest and Respondent failed to disclose the Roos Family Trust that he was a co-trustee of the trust that held the interest.

Respondent was able to secure a fraudulent judgment and support orders in the divorce judgment because of this false testimony given by Respondent. Petitioner has been trying to bring to

the courts attention to the fact that Respondent violated his mandatory disclosure requirements and breached his fiduciary duties as Petitioner discovered from this newly discovered evidence on the appellate record as it reveals Respondent lied under oath, filed false declarations of disclosure, and concealed assets and income from Petitioner during all prior divorce proceedings (as stated under California Family Code Section 2120-2129; 2120, 2121, 2122 (a) & (b), and as set forth in Sections 721, 1100, and 1101 of the Family Code, when the breach falls within the ambit meaning 3294 of the Civil Code) .

The newly discovered evidence on the appellate record would have materially affected the original outcome of the judgment on this case, the incorrect decision rendered by the lower court, and the appeals court opinion would not be possible as the evidence above reveals them to be erroneous. Not one of the decisions by the lower court and or appeals court are supported by the evidence on the record.

If one were to carefully consider all the facts contained in the record on appeal it would be impossible to render a decision that Petitioner had a lack of proof and or technical violations should be applied in order to not set aside judgment and support orders. Petitioner would like to point out that, this case was not tried because Respondent failed to put forth any evidence, not one single piece of evidence, and or proof of disclosure.

The case was settled by one Judge whereby this Judge had undisputed evidence before him presented

by Petitioner without any objections from Respondent yet the court has entered a wrong decision in a fraudulent judgment that needs to be corrected on this appeal in order to prevent further harm to Petitioner, Caroline Roos, Catherine Roos, and Leslie Stevenson Reilly.

What is of most importance is that many of the factual errors in the appeals court opinion are not in dispute by Respondent but only that of the appeals court opinion on behalf of Respondent as none of the issues raised by the appeals court opinion were ever raised by Respondent proposed and or briefed (technical violations/ objections). Petitioner was never given the opportunity to resolve any issues raised by the appeals court opinion (technical violations/ objections) as they were not issues raised by Respondent at time of judgment before the lower and or on this appeal and are not valid objections based on truth, facts, and evidence.

Respondent has filed no evidence to the contrary that he disclosed the concealed assets and income that were discovered by Petitioner. Respondent has showed no proof of disclosure and or ownership other than to falsely claim with no evidence presented that the Commerce Casino Club is his mother's investment . The appeal centers on a dispute over the ownership of commerce casino card club and possibly more card club interests. The appeal alleges that, pursuant to a fraudulent undisclosed Roos family living trust Respondent became the owner of this investment.

First, Respondent represented he never owned no card club interests then he falsely represented his mother owned the interest in the commerce casino when Respondent was a co-trustee of Roos Family Living Trust that he failed to disclose was an undisclosed sham trust. Petitioner did provide the court with documentary evidence newly discovered that Respondent's father Walter Louis Roos died broke with no will and or probate Appendix "I" (making any trust a sham with his name on it). Lastly, Petitioner provided the court with newly discovered evidence that Respondent's mother, Malissa Williamson Roos also died virtually broke with only $20,000 going through her probate estate Appendix "J" making any claim by Respondent that his mother owned the Commerce Casino Club to be false.

REASONS FOR GRANTING THE PETITION FOR REHEARING

ARGUMENTS

I

Petitioner respectfully prays a petition for rehearing be granted on this case in order to avoid further harm directly derived from the conflicting opinions of the lower court and the appeals court opinion as the evidence that was before the court at time of judgment and designated on the appellate record has been unlawfully eliminated by the appeals court opinion.

The case falls within the realm of being extraordinary in nature, and of great concern, gravity, as the appeals court opinion has illegally dismissed valid evidence exists that was before the lower court at time of judgment, issued erroneous factual findings, eliminated days of trial testimony, and misapplications of properly stated statues, laws, and rules. This case is of such imperative public importance because the evidence that was before the court reveals embezzlement, fraud, and perjury whereby this evidence and prior testimony given in court has criminal implications (for Mike Roos a powerful lobbyist, judges, and others) and any suppression of evidence that is clear and convincing by a court should not be tolerated . The appeals court has violated Federal Rules of Appellate Procedure, rule 10 and has violated the Fourteenth Amendment Petitioner's rights to due process because the appeals court has failed to consider the same evidence that was before the lower court at time of judgment. This evidence was designated on the appellate record without any objection in accordance with California Rule 8.124 as Appellant's Appendix. The appeals court opinion erroneously excluded the evidence for technical reasons not raised, proposed, and or briefed on behalf of Respondent in violation of California Government Code section 68081. "When new trial will be directed by Supreme Court – In general.- In those cases where findings of fact by Court below are such as to require judgment for Appellant rather than Respondent, where those findings are result of evidence erroneously admitted or excluded" - *Sun*

Ins. Co. V. White, 118 Cal. 468, 50 Pac. 546. The proper subjects of review in Supreme Court are the rulings and decisions of the trial court, not reasons given for such decisions and rulings either the record supports the rulings and decisions or it does not.

II.

This same evidence reveals the court allowed one party in the divorce to violate mandatory disclosure requirements, to breach fiduciary duties, and to have the only access to financial resources to hire an attorney. This same court refused to give newly discovered evidence of non-disclosure and concealment of assets any consideration because the evidence reveals the divorce judgment and support orders is based on fraud, perjury, and judicial misconduct. There needs to be uniformity, due process, and fairness in our courts. The people should at a minimum expect the courts to be fair and impartial to each party especially when one spouse has complete control over all of the community assets, has failed to pay court ordered support, has violated mandatory disclosure requirements, has breached their fiduciary duties, and has failed to disclose assets and income as required by law (as stated under California Family Code Section 2120-2129; 2120, 2121, 2122 (a) & (b), and as set forth in Sections 721, 1100, and 1101 of the Family Code, when the breach falls within the ambit meaning 3294 of the Civil Code).

The Supreme court has the authority to not allow an erroneous appeals court opinion rendered to stand and should clarify an appeals court opinion that's contradictory to the lower court's opinion as without the intervention of the Supreme court it will only cause additional harm and confusion. Additionally, the appeals court opinion raised new issues not proposed and or briefed in their opinion which further complicates the issues on appeal because the opinion dismissed evidence that existed before the lower court which revealed nondisclosure, concealment of assets, fraud, and perjury in order to affirm the lower court decision on" a lack of proof' (an abuse of discretion).

Appeal must be disposed of upon the appellate record not an erroneous appeals court opinion which has improperly raised technical violations should have existed but were not raised, proposed, and or briefed (beyond the record) on behalf of Respondent for the first time on appeal.

"Supreme Court will not look beyond record brought up on appeal, and if record does not justify judgment. It will be reversed." · *Reiss v. Brady*, 2 Cal. 132.

III.

Individuals should not be harmed for under taking an appeal by any court when they have been wronged they should expect remedies to be applied by the court when there has been a showing of evidence of violations of statutes, rules, and laws. The errors committed by the lower court and the

appeals court should be considered criminal in nature as the deviations made from the normal appellate practice are in direct violation of the Federal Rules of Appellate Procedure, statutes, and laws, and immediate determination is more than justified. Petitioner asks this court to determine the conflicting opinions of the trial court and the appellate court as to what evidence was in fact considered by the court if any? Currently, the court and Respondent is advancing a claim in the lower court that the evidence presented to the lower court (but not ever considered by the appeals court opinion as the evidence was unlawfully eliminated) was dealt with on this appeal and all issues raised related to the evidence is *Res judicata.*

"*Res judicata* or *res iudicata* (RJ), also known as claim preclusion, is the Latin term for "a matter [already] judged", and may refer to two things: in both civil law and common law legal systems, a case in which there has been a final judgment and is no longer subject to appeal.;[1] and the term is also used to refer to the legal doctrine meant to bar (or preclude) continued litigation of such cases between the same parties, which is different between the two legal systems. In this latter usage, the term is synonymous with "preclusion".

In the case of Res Judicata, the matter cannot be raised again, either in the same court or in a different court. A court will use Res Judicata to deny reconsideration of a matter.[2]

The legal concept of Res Judicata arose as a method of preventing injustice to the parties of a case

supposedly finished, but perhaps mostly to avoid unnecessary waste of resources in the court system. *Res judicata* does not merely prevent future judgments from contradicting earlier ones, but also prevents litigants from multiplying judgments, so a prevailing plaintiff could not recover damages from the defendant twice for the same injury."

"As to decision of the appellate Court being "law of the case." a decision of Supreme Court, in given cause, whether erroneous or not, becomes the law of that case in all its stages, fixes the rights of the parties, in binding upon inferior tribunals, and can not be reviewed by Supreme Court itself, where cause comes up on second appeal." – *Gross v. Fowler*, 21 Cal. 392, 395; *Argenti v. sawyer*, 32 Cal. 414, 416, See *Yates v. Smith*, 40 Cal. 662; *Kile v. Tubbs*, 32 Cal. 332; *Mulford v. Estudillo*, 32 Cal. 131; *Davidson v. Dallas* 15 Cal. 75, 82.

In essence, the evidence of embezzlement, fraud, and perjury will never see the light of day in any court if this Petition for rehearing is not granted....

CONCLUSION

"The Supreme Court have power to order a rehearing, or a new trial, in those cases in which they doubt the correctness of the action of the trial court in making an order for judgment instead of awarding a new trial." - *Kimpton v. Jubliee Placer Min. Co.*,16 Mont. 379, 382, 41 Pac. 137, 42 Pac. 102.

Petitioner should be entitled to a equitable divorce judgment, her separate property (including Commerce Casino Card Club Interest 20 shares plus ill gotten gains), Equitable support orders, arrearages owed on support orders, a fair trial, and discovery. Petitioner's twin-sister should be entitled to her separate property (including Commerce Casino Card Club Interest 20 shares plus ill gotten gains), all her cash contributions made to the community estate ($100,000.+), her car insurance settlement stolen by Mike Roos ($531,561). and or her commission on the sale of the Bicycle club interest to Walter Lack LLC stolen by Mike Roos (over $1,300,000.plus ill gotten gains). Note: Petitioner's twin- sister, Leslie Stevenson Reilly (was the registered broker with the Marshalls forfeiture dept. Resolution Trust dept. for this investment). She got a package from Harry Richard the trustee for the government's interest in July/ August 1994. Petitioner believes Mike Roos her former husband stole the commission. Petitioner's twin sister and Petitioner sent out packages to prospective investors which included Mr. Tom Girardi. They have been prevented from knowing who the actual investors are in the Walter Lack L.L.C. and who actually collected the commission on the Bicycle Club Investment as Petitioner was prevented from discovery in this divorce and there has been no transparency as the interest is held in an LLC.

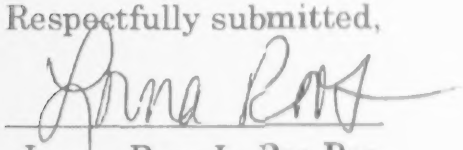
Petitioner prays that the rules, statutes, laws will be applied to the evidence in truth and to the facts on this case as a terrible injustice has occurred.

For the foregoing reasons the petition for rehearing should be granted, the orders issued by Judge Rudolph Diaz on 4-27-2009 and the appeals court opinion issued on 4-23-2010 should be vacated, and the case scheduled for a new trial whereby the judgment from June 4th, 2004 is set aside in it's entirety including all support orders and any false credits given to Respondent on support orders reversed. Respondent should be charged with all costs for this appeal not Appellant.

I declare certify under penalty of perjury that the foregoing is true and correct.

Executed on February 16th, 2011

Respectfully submitted,



Lorna Roos In Pro Per

Appendix A

SUPERIOR COURT OF THE STATE OF CALIFORNIA
THE COUNTY OF LOS ANGELES
DEPARTMENT NO. 27 HON. KENNETH A BLACK, JUDGE

IN RE THE MARRIAGE OF:)
LORNA ROOS,)
PETITIONER,)
AND) NO. BD202859
MICHAEL ROOS,)
RESPONDENT,)
_____)

REPORTER'S TRANSCRIPT OF PROCEEDINGS
THURSDAY, MARCH 9, 2000
(P.M. SESSION)

APPEARANCES:

Appendix A

FOR THE PETITIONER: ILENE EVANS
TRABOLSI, ESQ.
2530 WILSHIRE BOULEVARD
SUITE 200
SANTA MONICA, CA 90403
(310) 453-6226

FOR THE RESPONDENT: ROBERT M. NEWELL,
ESQ.
600 WILSHIRE BOULEVARD
17TH FLOOR
LOS ANGELES, CA 90017
(213) 629-1231

ORIGINAL

REPORTED BY: SHARON M. LOPEZ CSR
NO. 5154
OFFICIAL REPORTER

Appendix A

A NO 12

Q DO YOU HOLD ANY ASSETS OF ANY KIND IN NEW YORK?

A NONE.

Q **DO YOU HAVE ANY INTEREST IN COMMERCE CARD CLUB?**

A **NONE.**

Q **ANY CARD OR CASINO CLUB?**

A **NONE.**

Q **NO ONE IS HOLDING ANY INTEREST IN THOSE CLUBS—**

A **NONE.**

THE COURT: LET HER FINISH THE QUESTION.

THE WITNESS: I'M SORRY

BY MS. TRABOLSI:

Q **MR. ROOS**, DO YOU HAVE A FEDERAL

Appendix A

TAX I. D. NUMBER?

A YOU KNOW. I DO APOLOGIZE IN NOT BEING ABLE TO –I MEAN I DON'T KNOW. I MEAN MY STRENGTH IS NOT PAYING ATTENTION TO THE SPECIFICS OF WHETHER I HAVE A FEDERAL TAX I.D. NUMBER OR NOT. IF WE HAD HAD LUNCH AND YOU ASKED ME THE QUESTION, I WOULD GO BACK AND I WOULD CALL UP RENITA AND SAY, " DO I HAVE A FEDERAL TAX I.D. NUMBER?"

Q RENITA IS WHO?

A RENATA IS THE BOOKKEEPER WHO DOES THESE STATEMENTS OF INS AND OUTS.

Q HAVE YOU EVER FILED A TAX RETURN UNDER A FEDERAL I.D. NUMBER?

A I DON'T KNOW WHAT THAT MEANS. I FILE ALL OF MY TAXES, AND YOU HAVE EVERY TAX FORM THAT I HAVE EVER FILED

Appendix A

IN THE BOX IN FRONT OF YOU DURING MY MARRIAGE TO LORNA.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
THE COUNTY OF LOS ANGELES
DEPARTMENT NO. 27 HON. KENNETH A BLACK, JUDGE

IN RE THE MARRIAGE OF:)
LORNA ROOS,)
PETITIONER,)
AND) NO. BD202859
MICHAEL ROOS,) REPORTER'S
RESPONDENT,) CERTIFICATE
_____)
STATE OF CALIFORNIA)

Appendix A

)

COUNTY OF LOS ANGELES)

I, SHARON M LOPEZ, OFFICIAL REPORTER OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY OF LOS ANGELES, DO HEREBY CERTIFY THAT THE FOREGOING PAGES 2 THROUGH 82 COMPRISES A FULL, TRUE AND CORRECT TRANSCRIPT OF THE PROCEEDINGS HAD IN THE MATTER OF THE ABOVE- ENTITLED CAUSE ON THURSDAY, MARCH 9, 2000, P.M. SESSION.

DATED THIS 7TH DAY OF JULY 2000.

"s/"

CSR NO. 5154, OFFICIAL REPORTER

Appendix B

SUPERIOR COURT OF THE STATE OF CALIFORNIA

THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 27 HON. KENNETH A BLACK, JUDGE

IN RE THE MARRIAGE OF:	)	
LORNA ROOS,	)	
PETITIONER,	)	
AND	)	NO. BD202859
MICHAEL ROOS,	)	
RESPONDENT,	)	
_____	)	

REPORTER'S TRANSCRIPT OF PROCEEDINGS

THURSDAY, APRIL 27, 2000

APPEARANCES:

Appendix B

FOR THE PETITIONER: LORNA ROOS
IN PROPRIA PERSONA

FOR THE RESPONDENT: ROBERT M. NEWELL,
ESQ.
600 WILSHIRE BOULEVARD
17TH FLOOR
LOS ANGELES, CA 90017-3229

YOLANDA POTTER, C.S.R. NO. #2125
OFFICIAL REPORTER

ORIGINAL

Appendix B

MR. NEWELL: LET ME CHECK AND SEE.

MR. OYLER: EXCUSE ME, YOUR HONOR. WHEN I WAS IN COURT ONE DAY AND REVIEWED THE COURT FILE, I DID NOT SEE THE **FINAL DISCLOSURE STATEMENT** OF THE RESPONDENT IN THE FILE.

THE COURT: MR. OYLER, IT'S NOT FILED.

MR. NEWEL: I THINK I FILED IT HERE.

MR. OYLER: I DID NOT SEE THAT IN THE FILE.

THE COURT: I KNOW. TRY TO FIND IT, MR. NEWELL.

MR. NEWELL: MY RECOLLECTION IS I FILED IT THE LAST TIME WE WERE IN COURT WITH YOUR CLERK.

THE COURT: HERE'S THE COURT FILE. SEE IF YOU CAN FIND IT.

Appendix B

(PAUSE IN THE PROCEEDINGS.)

THE COURT: DO YOU WANT TO CHECK, VIRGINIA, AND SEE IF MR. NEWELL --- CHECK ON THE COMPUTER.

(PAUSE IN THE PROCEEDINGS.)

MR. NEWELL: YOUR HONOR, I DON'T SEE THAT THE DECLARATION WAS FILED. BUT A STATEMENT OF ASSETS AND LIABILITIES--

THE COURT: THAT'S NOT A DECLARATION OF DISCLOSURE.

MR. NEWELL: I UNDERSTAND, BUT THAT'S AN IDLE ACT IN THIS CASE.

THE COURT: EXCUSE ME?

MR. NEWELL: IT'S AN IDLE ACT IN THIS CASE BECAUSE I SENT A COMPLETE STATEMENT OF ASSETS AND LIABILITIES ON MARCH THE 2ND.

Appendix B

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THE COURT: YOU MAY CHARACTERIZE IT AS AN IDLE ACT, BUT THE LEGISLATURE USED THE WORD "SHALL".

MR. NEWELL: **I WILL PREPARE IT RIGHT NOW**.

THE COURT: WELL --

MR. OYLER: WELL, I THINK **THE STAUTE REQUIRES 45 DAYS.**

THE COURT: IT DOES SAY THAT, BUT IT ALSO DOESN'T SAY WHAT THE REMEDY IS. IT TALKS ABOUT THE FIRST ASSIGNED TRIAL DATE, SO IN THEORY YOU COULD NEVER GET DIVORCED IN THAT CASE. IN THEORY YOU WOULD HAVE TO DISMISS THAT CASE AND THEN FILE ANOTHER ONE.

MS. ROOS: YOUR HONOR –

THE COURT: YES.

MS. ROOS: YOUR HONOR, I UNDERSTAND IF YOU GO PAST THE ALLOTTED TIME FOR FOUR HOURS THAT **YOU HAVE THE OPPORTUNITY TO DO A MISTRIAL.**

MR. NEWELL: TO DO WHAT?

Appendix B

THE COURT: **A MISTRIAL**. THAT'S GOING TO BE PRODUCTIVE BECAUSE I'M JUST GOING TO GET TO DO IT AGAIN.

MS. ROOS: **WELL, WE'D LIKE TO DO THAT.**

THE COURT: **YOU MIGHT LIKE TO DO THAT, BUT THE COURT ISN'T GOING TO NECESSARILY USE THE COURT'S RESOURCES IN THAT FASHION BECAUSE THAT'S A WASTE OF EVERYBODY'S TIME.**

MS. ROOS: BUT I AM --

THE COURT: **I'M NOT GOING TO DECLARE A MISTRIAL.**

MS. ROOS: I NEED TO REPLACE THE DOCUMENTS THAT WERE TAKEN FROM THE COURT FILE.

Appendix B

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SUPERIOR COURT OF THE STATE CALIFORNIA
THE COUNTY OF LOS ANGELES
DEPARTMENT NO. 27 HON. KENNETH A BLACK, JUDGE

IN RE THE MARRIAGE OF:)
LORNA ROOS,)
PETITIONER,)
AND) NO. BD 202859
MICHAEL ROOS,) REPORTER'S
RESPONDENT,) CERTIFICATE
_____)

STATE OF CALIFORNIA)
) SS
COUNTY OF LOS ANGELES)

Appendix B

I, YOLANDA POTTER, OFFICIAL REPORTER OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY OF LOS ANGELES, DO HEREBY CERTIFY THAT THE FOREGOING PAGES 1 THROUGH 19; COMPRISES A TRUE AND CORRECT TRANSCRIPT HELD ON THURSDAY, MARCH 9, 2000; IN THE MATTER OF THE ABOVE-ENTITLED CAUSE.

DATED THIS 21ST DAY OF JUNE 2000.

"s/" C.S.R. #2125

OFFICIAL REPORTER

Appendix C

ROBERT M. NEWELL, ESQ. # 19006 (213) 629-1231
600 Wilshire Boulevard, 17th Floor
Los Angeles, CA 90017-3229
Attorney for MICHAEL ROOS

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES — NO. BD202859

In re the marriage of :) RESPONDENT'S
Petitioner: LORNA ROOS) TRIAL BRIEF
) Date: Match 9, 2000
and) Time: 8 : 30 A.M.
Respondent: MICHAEL ROOS) Dept: 27
)

1.STATISTICAL FACTS:

The parties were married on September 16, 1988. They first separated on September 17, 1994, but reconciled somewhat later. They separated again on February 19, 1999. Therefore, the length of the

Appendix C

marriage is arguable – 10 years and 5 months. They have two minor children:

Caroline, born on 11/14/91, age 8

Catherine, born on 2/3/93, age 7

2. CUSTODY AND VISITATION:

The parties agree that they shall share the joint legal

Appendix C

ATTORNEY OR PARTY WITHOUT ATTORNEY (NAME AND ADDRESS) TELEPHONE NO	
ROBERT M. NEWELL, ESQ. # 19006 (213) 629-1231 600 Wilshire Boulevard, 17th, Floor Los Angeles, CA 90017-3229	
ATTORNEY FOR (NAME) MICHAEL ROOS	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES	
MARRIAGE OF PETITIONER: LORNA ROOS RESPONDENT: MICHAEL ROOS	
SCHEDULE OF ASSETS AND DEBTS ☐ **Petitioner's** ☐ Respondent's	CASE NUMBER BD202859

-INSTRUCTIONS-

List all your known community and separate assets or debts. Include assets even if they are in the possession of another person, including your spouse. If you contend an asset or debt is separate, put H or W in the first column (separate property) to indicate to whom you contend it belongs.

All values should be as of the date of signing the declaration unless you specify a different valuation date with the description.

For additional space, use a continuation sheet numbered to show what item is being continued.

ITEM NO	ASSETS-DESCRIPTION	SEP PROP	DATE ACQUIRED	CURRENT GROSS FAIR MARKET VALUE	AMOUNT OF MONEY OWED OR ENCUMBRANCE
1	REAL ESTATE (Give street addresses, and attach copies of deeds with legal descriptions and latest lender's statement.) undivided 2/3 interest in residence at Kenilworth Ave., Los Angeles, CA		Oct. 1990 Total equity	650,000	457,000

Appendix C

ITEM NO.	ASSETS-DESCRIPTION	SEP PROP.	DATE ACQUIRED	CURRENT GROSS FAIR MARKET VALUE	AMOUNT OF MONEY OWED OR ENCUMBRANCE
1.	Con't SEE ATTACHED SCHEDULE OF ASSETS FOR BALANCE OF ASSETS AND DEBTS		$193,000	: 2/3 = $128,666	
2.	HOUSEHOLD FURNITURE, FURNISHINGS, APPLIANCES (Identify)				
3.	JEWELRY, ANTIQUES, ART, COIN COLLECTIONS, etc. (Identify)				

(Continued on reverse)

SCHEDULE OF ASSETS AND DEBTS

Form approved by rule 1292.11 (Family Law) Code of Civil Procedure 2030

Appendix C

ITEM NO.	ASSETS-DESCRIPTION	SEP PROP	DATE ACQUIRED	CURRENT GROSS FAIR MARKET VALUE	AMOUNT OF MONEY OWED OR ENCUMBRANCE
4.	VEHICLES, BOATS, TRAILERS (Describe and attach copy of title document)			$	$
5.	SAVINGS ACCOUNTS (Account name, account number, bank, and branch. Attach copy of latest statement.)				
6.	CHECKING ACCOUNTS Account name and number, bank, and branch. Attach copy of latest statement)				
7.	CREDIT UNION, OTHER DEPOSIT ACCOUNTS (Account name and number, bank, and branch. Attach copy of latest statement.)				
8.	CASH (Give location)				
9.	TAX REFUND				
10	LIFE INSURANCE WITH CASH SURRENDER OR LOAN VALUE (Attach copy of declaration page for Each policy.)				

(Continued on next page)

Appendix C

ITEM NO.	ASSETS-DESCRIPTION	SEP PROP	DATE ACQUIRED	CURRENT GROSS FAIR MARKET VALUE	AMOUNT OF MONEY OWED OR ENCUMBRANCE
11.	STOCKS, BONDS, SECURED NOTES, MUTUAL FUNDS (Give certificate number and attach copy of the certificate or copy of latest statement)			$	$
12.	RETIREMENT ND PENSIONS (Attach copy of latest summary plan documents and latest benefit statement)				
13.	PROFIT-SHARING, ANNUITIES, IRAS, DEFERRED COMPENSATION (Attach copy of latest statement.)				
14.	ACCOUNTS RECEIVABLE AND UNSECURED NOTES (Attach copy of each.)				
15.	PARTNERSHIPS AND OTHER BUSINESS INTERESTS (Attach copy of most current K-1 form and schedule C.)				
16.	OTHER ASSETS				
17.	TOTAL ASSETS FROM CONTINUATION SHEET				
18.	TOTAL ASSETS				

(Continued on reverse)

Appendix C

DEBTS SHOW TO WHOM OWED ITEM NO.	SEP PROP	TOTAL OWING	DATE INCURRED
19. STUDENT LOANS		$	
20. TAXES (Give details.)			
21. SUPPORT ARREARAGES (Attach copies of orders and statements.)			
22 LOANS – UNSECURED (Give bank name and Loan No. and attach copy of latest statement.)			
23. CREDIT CARDS (Give credit's name and address and the account number Attach copy of latest statement.)			
24. OTHER DEBTS (Specify):			
25. TOTAL DEBTS FROM CONTINUATION SHEET			
26. TOTAL DEBTS			

27. ☐ ____ pages are attached as continuation sheets.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date 3/1/00

MICHAEL ROOS

(TYPE OR PRINT NAME OF DECLARANT)

"s/

(SIGNATURE OF DECLARANT)

SCHEDULE OF ASSETS AND DEBTS Page four of four

Appendix C

SCHEDULE OF ASSETS AND LIABILITIES

COMMUNITY PROPERTY

1.	Undivided interest in residence at 2105 Kenilworth Ave. Los Angeles, CA	$128,666
2.	Household furniture and furnishings, approximately	20,000
3.	2,124 shares Janus Fund, approximately	115,000
4.	534 shares Nicholas Fund, approximately	43,878
5.	267 shares Vanguard Fund, approximately	34,850
6.	335 shares Exxon, approximately	25,000
7.	441 shares Janus IRA, approximately (not counting Respondent's separate Property interest of approximately $7,000)	15,646
8.	6666.881 shares Vanguard Index IRA, approximately	8,666
9.	Membership Lakeside Golf Club ($75,000 less 25% transfer fee)	56,250
10.	Vanguard Index Fund, bonus from LEARN, pre-tax, appr.	66,439
11.	21% interest in Respondent's legislative retirement benefits	Not valued
12.	500 shares Aames Financial, approximately	377

Appendix C

SCHEDULE OF ASSETS AND LIABILITIES

COMMUNITY PROPERTY

13. 533 shares Indymac Mortgage, approximately	7,400
Total value, approximately	$522,172

COMMUNITY OBLIGATIONS

1. Melissa Roos	$63,800
2. MBNA America	5,000
Total obligations	68,254
NET VALUE OF COMMUNITY ESTATE	$453,958

Plus an undivided one-half interest in the community's interest in Respondent's legislative retirement benefits.

Appendix C

RESPONDENT'S SEPARATE PROPERTY

1. Many items of household furniture and furnishings located in the residence at 2105 Kenilworth Ave	Value unknown
2. 150 shares Exxon, approximately	$12,000
2 Interest in IRA (Vanguard) (referred to above), approximately	8,666
3. Miscellaneous securities in Respondent's account at Charles Schwab, approximately	34,000
4. 1989 La Forza automobile, approximately	17,000
5. Payden & Rigel Total Return Fund, approximately	24,000
6. Place 2780 Limited Partnership AKT Development Cop., 7700 College Town Dr. Suite 101, Sacramento, CA 95826, approximately	43,000
7. Savings account at Tokai Bank, Main Office Account No. 092105830, approximately	6,200
8. Checking account at Tokai Bank, Main Office Account No. 001 049 704, approximately	4,200
9. 79% interest in Respondent's legislative retirement benefits	Value unknown
10. Park Place Entertainment, approximately	6,187

Appendix C

RESPONDENT'S SEPARATE PROPERTY

11. Separate property interest in Janus IRA, approximately 7,000

12. 500 shares Aames, approximately 377

13. 300 shares Indymac, approximately 4,200

2

PROPOSED DIVISION OF COMMUNITY PROPERTY

TO PETITIONER:

1. Household furniture and furnishings , approximately 20,000

2. Janus Fund (The balance to be divided equally between The parties)
95,000

3. ½ of Respondent's bonus from LEARN, pre-tax, approx. 33,000

4. One-half of Janus IRA, approximately 11.300

5. One-half of Vanguard Fund, approximately 33,200

6. One-half of Nicholas fund, approximately 21,900

7. One-half of Exxon, approximately 12,000

Appendix C

PROPOSED DIVISION OF COMMUNITY PROPERTY

7.	250 shares of Aames, approximately	188
8.	267 shares of Indymack, approximately	3,700
	Total value:	$300,000

Less Community debts to be paid by Respondent:

3

1.	Melissa Roos	$62,800	
2.	MBNA	4,454	
	Total debts:		-68,254
	Net velue to Respondent:		$ 231,950

4

Appendix C

PROPOSED DIVISION OF COMMUNITY PROPERTY

In addition, each of the parties will be awarded an undivided one-half interest in the community's interest in Respondent's legislative retirement benefits

OR

Alternatively, the Respondent will purchase the Petitioner's interest in these benefits by transferring the La Forza automobile to her at an agreed value of $10,000 plus $7,500 in cash a total of $17,500

* * *

Appendix D

ATTORNEY OR PARTY WITHOUT ATTORNEY (NAME AND ADDRESS) TELEPHONE NO

ROBERT M. NEWELL, ESQ. # 19006 (213) 629-1231

600 Wilshire Boulevard, 17th, Floor

Los Angeles, CA 90017-3229

ORIGINAL FILED
MAR 02 2000

ATTORNEY FOR (NAME) MICHAEL ROOS

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

MARRIAGE OF

LOS ANGELES
SUPERIOR COURT

PETITIONER: LORNA ROOS

RESPONDENT: MICHAEL ROOS

SCHEDULE OF ASSETS AND DEBTS
☐ **Petitioner's** ☐ Respondent's

CASE NUMBER
BD202859

-INSTRUCTIONS-

List all your known community and separate assets or debts. Include assets even if they are in the possession of another person, including your spouse. If you contend an asset or debt is separate, put H or W in the first column (separate property) to indicate to whom you contend it belongs.

All values should be as of the date of signing the declaration unless you specify a different valuation date with the description.

For additional space, use a continuation sheet numbered to show what item is being continued

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Appendix D

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				$193,000 ÷ $128,666	2/3 =
	SEE ATTACHED SCHEDULE OF ASSETS FOR BALANCE OF ASSETS AND DEBTS				
2.	HOUSEHOLD FURNITURE, FURNISHINGS, APPLIANCES (Identify)				
3.	JEWELRY, ANTIQUES, ART, COIN COLLECTIONS, etc. (Identify)				

(Continued on reverse) Page one of four

SCHEDULE OF ASSETS AND DEBTS

Form approved by rule 1292.11 (Family Law) Code of Civil Procedure 2030

Appendix D

ITEM NO.	**DEBTS** SHOW TO WHOM OWED	SEP PROP.	TOTAL OWING	DATE INCURRED
1	STUDENT LOANS		$	
2.	TAXES (Give details.)			
3.	SUPPORT ARREARAGES (Attach copies of orders and statements.)			
4.	LOANS – UNSECURED (Give bank name and Loan No. and attach copy of latest statement.)			
5	CREDIT CARDS (Give credit's name and address and the account number. Attach copy of latest statement)			
6	OTHER DEBTS (Specify)			
7.	TOTAL DEBTS FROM CONTINUATION SHEET			
8.	TOTAL DEBTS			

9. ☐ _____ pages are attached as continuation sheets.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 3/1/00

MICHAEL ROOS

(TYPE OR PRINT NAME OF DECLARANT)

"s/"

(SIGNATURE OF DECLARANT)

Appendix D

SCHEDULE OF ASSETS AND LIABILITIES

COMMUNITY PROPERTY

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6.	335 shares Exxon, approximately	25,000
7.	441 shares Janus IRA, approximately	15,646
	(not counting Respondent's separate Property interest of approximately $7,000)	
8.	6666.881 shares Vanguard Index IRA, approximately	8,666
9.	Membership Lakeside Golf Club ($75,000 less 25% transfer fee)	56,250
10.	Vanguard Index Fund, bonus from LEARN, pre-tax, appr.	66,439
11.	21% interest in Respondent's legislative retirement benefits	Not valued
12.	500 shares Aames Financial, approximately	377

Appendix D

SCHEDULE OF ASSETS AND LIABILITIES

COMMUNITY PROPERTY

13. 533 shares Indymac Mortgage, approximately	7,400
Total value, approximately	$522,172

COMMUNITY OBLIGATIONS

1. Melissa Roos	$63,800
2. MBNA America	5,000
Total obligations	68,254
NET VALUE OF COMMUNITY ESTATE	$453,958

Plus an undivided one-half interest in the community's interest in Respondent's legislative retirement benefits.

Appendix D

RESPONDENT'S SEPARATE PROPERTY

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2	Interest in IRA (Vanguard)	8,666
	(referred to above), approximately	
3.	Miscellaneous securities in Respondent's account at Charles Schwab, approximately	34,000
4.	1989 La Forza automobile, approximately	17,000
5.	Payden & Rigel Total Return Fund, approximately	24,000
6.	Place 2780 Limited Partnership AKT Development Cop., 7700 College Town Dr. Suite 101, Sacramento, CA 95826, approximately	43,000
7.	Savings account at Tokai Bank, Main Office Account No. 092105830, approximately	6,200
8.	Checking account at Tokai Bank, Main Office Account No. 001 049 704, approximately	4,200
9.	79% interest in Respondent's legislative retirement benefits	Value unknown
10.	Park Place Entertainment, approximately	6,187

Appendix D

RESPONDENT'S SEPARATE PROPERTY

11.	Separate property interest in Janus IRA, approximately	7,000
12.	500 shares Aames, approximately	377
13.	300 shares Indymac, approximately	4,200

PROPOSED DIVISION OF COMMUNITY PROPERTY

TO PETITIONER:

1.	Household furniture and furnishings , approximately	20,000
2.	Janus Fund (The balance to be divided equally between The parties) 95,000	
3.	½ of Respondent's bonus from LEARN, pre-tax, approx.	33,000
4.	One-half of Janus IRA, approximately	11.300
5.	One-half of Vanguard Fund, approximately	33,200
6.	One-half of Nicholas fund, approximately	21,900
7.	One-half of Exxon, approximately	12,000

Appendix D

PROPOSED DIVISION OF COMMUNITY PROPERTY

7.	250 shares of Aames, approximately	188
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	Total value:	$300,000

Less Community debts to be paid by Respondent:

3

1.	Melissa Roos	$62,800	
2.	MBNA	4,454	
	Total debts:		-68,254
	Net velue to Respondent:		$ 231,950

4

Appendix D

PROPOSED DIVISION OF COMMUNITY PROPERTY

In addition, each of the parties will be awarded an undivided one-half interest in the community's interest in Respondent's legislative retirement benefits

OR

Alternatively, the Respondent will purchase the Petitioner's interest in these benefits by transferring the La Forza automobile to her at an agreed value of $10,000 plus $7,500 in cash a total of $17,500

* * *

RESPONDENT'S PURCHASE WITH THE $100,000 GIFT TO HIM FROM HIS MOTHER ON MAY 1, 1996

AKT Development 2780 Placer property partnership	$43,000
Aames Financial Corp. 1006 @ 1-7/16	1,509
Indymac Mortgage holdings 887 @ 10- ½	9,313

Appendix D

Intel Corp. 150 @ 130	19,500
Lakes Gaming 125 @ 9.125	1,140
Park Place Entertainment 500 @ 7.5	3,750
Miscellaneous securities in Charles Schwab account # 7595-7161	34,000
La Forza automobile	17,000
Savings account at Tokai Bank Account #092105830	6,296
Checking account at Tokai Bank Account # 001-049704 Opened after separation	4,245

Appendix E

SUPERIOR COURT OF THE STATE OF CALIFORNIA
THE COUNTY OF LOS ANGELES
DEPARTMENT CE83 HON. RUDOLPH A. DIAZ, JUDGE

IN RE THE MARRIAGE OF:	)	
LORNA ROOS,	)	
PETITIONER,	)	
AND	)	NO. BD202859
MICHAEL ROOS,	)	
RESPONDENT,	)	
_____	)	

REPORTER'S TRANSCRIPT OF PROCEEDINGS
JUNE 17, 2010

APPEARANCES:

Appendix E

FOR THE PETITIONER: LORNA ROOS
IN PROPRIA PERSONA

FOR THE RESPONDENT: KENNETH NAHIGIAN,
ESQ.
20335 VENTURA BOULEVARD,
SUITE 430, WOODLAND HILLS,
CALIFORNIA 91364
(818) 264-0209

BARBARA MENDOZA, CSR 3527
OFFICIAL REPORTER

COPY

Appendix E

WHAT IS YOUR NAME, AGAIN?

MR. NAHIGIAN: NAHIGIAN.

THE COURT: I'D LIKE TO WAIT UNTIL SHE GETS BACK ON WE'LL WAIT ANOTHER HALF HOUR OR SO. SEE IF SHE WILL GET BACK ON.

MR. NAHIGIAN: THANK YOU. YOUR HONOR.

THE COURT: I DO WANT TO GIVE HER A CHANCE TO BE PRESENT.

(UNRELATED MATTERS WERE HEARD)

THE COURT: MISS ROOS? IS ANYBODY ON THE LINE? ALL RIGHT. COUNSEL, COME FORWARD ON THE ROOS MATTER.

I THINK ONE OF THE PROBLEMS, SHE LIVES A LONG DISTANCE. SHE LIVES IN SANTA BARBARA.

Appendix E

I THINK IT'S PRETTY CLEAR, COUNSEL, AFTER REVIEWING THE O.S.C., A COPY OF WHICH I DON'T HAVE, I BORROWED YOUR COPY, SHE INDICATES SHE IS GOING TO NEED TO CONDUCT DISCOVERY, AS WELL.

I ALSO INDICATED, GLANCE AT THE O.S.C., IT WOULD APPEAR TO ME UNLESS SHE CAN DEMONSTRATE NEWFOUND EVIDENCE, WHICH SHE IS SUGGESTING SHE CAN, I DID NOT SEE IT SPECIFICALLY, **THESE ISSUES ARE RES JUDICATA. THE COURT HAS NOT ONLY HEARD HER APPLICATION PREVIOUSLY, BUT ALSO DENIAL OF HER REQUEST FOR NEW TRIAL WAS APPEALED BY HER WITH THE SAME RESULT.**

I'M GOING TO CONTINUE THIS MATTER ON THE COURT'S CALENDAR. IT SOUNDS TO ME A LOT OF TIME IS GOING TO BE NEEDED TO RE-

Appendix E

SOLVE THIS. UNLESS THE COURT DENIES IT BECAUSE IT'S RES JUDICATA. IF SHE IS GOING TO DEMONSTRATE NEW EVIDENCE, I DON'T KNOW WHAT SHE IS GOING TO DO. SHE ALSO INDICATES SHE IS GOING TO BE SEEKING DISCOVERY. GOING TO HAVE TO MAKE A SEPARATE APPLICATION FOR DISCOVERY SINCE THIS IS A POST JUDGMENT MATTER.

Appendix E

SUPERIOR COURT OF THE STATE CALIFORNIA
THE COUNTY OF LOS ANGELES
DEPARTMENT CE83 HON. RUDOLPH A. DIAZ, JUDGE

IN RE THE MARRIAGE OF:	)	
LORNA ROOS,	)	
PETITIONER,	)	
AND	)	NO. BD 202859
MICHAEL ROOS,	)	REPORTER'S
RESPONDENT,	)	CERTIFICATE
_____	)	

I, BARBARA MENDOZA, OFFICIAL REPORTER OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY OF LOS ANGELES, DO HEREBY CERTIFY THAT I DID

Appendix E

CORRECTLY REPORT THE PROCEEDINGS CONTAINED HEREIN AND THAT THE FOREGOING PAGES 1 THROUGH 14, COMPRISE A FULL, TRUE AND CORRECT TRANSCRIPT OF THE PROCEEDINGS HELD AND THE TESTIMONY TAKEN IN THE ABOVE-CAPTIONED MATTER ON OCTOBER 28, 2008 AND **JUNE 17, 2010**.

DATED THIS 10TH DAY OF AUGUST, 2010.

"s/" C.S.R. #3527

OFFICIAL COURT REPORTER

Appendix F

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Dept: Dept. CE 83

Date	09-08-10				[CE 83]
Honorable	RUDOLPH DIAZ	Judge	G. REGALADO		Deputy Clerk
Honorable		Judge Pro Tem	M BAXTER		Court Assistant
8	J. PENA	Deputy Sheriff	B MENDOZA #3527		Reporter

8:30 a.m. BD202859

Roos, Lorna (X) — Counsel For Petitioner — In Pro Per (x)

VS

Roos, Michael (N/A) — Counsel For Respondent JORDAN METZ (X) & KENNETH R NAHIGIAN (X)

Nature of Proceedings PETITIONER'S MOTION- TO SET ASIDE JUDGMENT AND FOR FEES

The matter is called for hearing. Petitioner is sworn and testifies.

The Court finds no hearing took place on 6-28 as stated by Petitioner.

The Court sustains respondent's objections to petitioner's declarations.

The issue of petitioner's Reply filed on 9-7-10 is raised. This is rejected as untimely.

Appendix F

The Court announces its findings as fully reflected in the notes of the official court reporter, incorporated herein by reference. Based thereon petitioner's motion is denied as is respondent's request for attorney fees and to declare petitioner a **vexatious litigant.**

Counsel for respondent shall prepare an Order After Hearing. It shall be submitted to opposing party for approval as to form and content and then submitted to the Court for signature. This shall be done in compliance within the limits of LAC Rule 14.11.

DEPT Dept CE 83 [CE 83]

MINUTES ENTERED 09-08-10 COUNTY CLERK

Appendix G

Form 706(Rev8-02)

Estate of: MALISSA W ROOS 408-16-0248

SCHEDULE G- Transfers During Decedent's Life

(If you elect section 2032A valuation, you must complete Schedule G and Schedule A-1)

Item number	Description For securities, give CUSP number	Alternate valuation date	Alternate value	Value at date of death
A	Gift tax paid by the decedent or the estate for all gifts made by the decedent or his or her spouse within 3 years before the decedent's death (section2035(b))	X X X X X		
B	Transfers includible under section 2035(a), 2036, 2037, or 2038			
1	THE FOLLOWING ASSETS WERE HELD BY MALISSA W ROOS AND **MICHAEL Y. ROOS AS CO- TRUSTEES OF THE ROOS FAMILY LIVING TRUST DATED AUGUST 11, 1989,** AS AMENDED BY AMENDMENT TO THE ROOS FAMILY LIVING TRUST DATED APRIL 14, 1997, WALTER L ROOS AND MALISSA W ROOS, AS TRUSTORS, A COPY OF WHICH TRUST DOCUMENTS ARE ATTACHED TO THE RETURN			0
2	REAL PROPERTY LOCATED IN BAHAMAS – CHESAPEAKE BLOCK 6 LOT 109 (REAL ESTATE BROKER LETTER ATTACHED			4,460
3	10 SHARES MINORITY INTEREST IN COMMERCE CASINO CLUB INC, A CALIFORNIA			
Total from contribution schedules (or additional sheets) Attached to this schedule				500,000
Total (Also enter on Part 5, Recapitulation, page 3 at item 7)				504,460

Appendix G

SCHEDULE H – POWERS OF APPOINTMENT

(Include 5 and 5 lapsing powers (section 2041(b)(2) held by the decedent)
(If you elect section 2032A valuation, you must complete Schedule H and Schedule A- 1)

Item number	Description	Alternate valuation date	Alternate value	Value at date of death
1	NONE			0
	Total from contribution schedules (or additional sheets) Attached to this schedule .			
	Total (Also enter on Part 5, Recapitulation, page 3 at item 8)			0

(If more space is needed, attach the continuation schedule from the end of this package or additional sheets of the same size)
(The instructions to Schedule G and H are in the separate instructions)

Appendix G

Estate of: MALISSA W ROOS 408-16-0248

Continuance of **SCHEDULE G**- Transfers During Decedent's Life

Item no	Description For securities, give CUSP number if available	Alternate valuation date	Alternate value	Value at date of death
	S- CORPORATION VALUATION REPORT ATTACHED TO THIS RETURN VALUE OF 20 SHARES COMMERCE CASINO CLUB $1,000,000. LESS 10 SHARES OWNED BY THE EXEMPTION TRUST OF THE ROOS FAMILY TRUST (EIN (33-6088274) (500,000) 500,000			500,000
Total (Carryforward to main schedule)				500,000

Appendix H

TAXABLE YEAR 2004 — CALIFORNIA SCHEDULE

SHAREHOLDER'S SHARE OF INCOME, DEDUCTIONS, CREDITS, etc. — K-1 (100S)

For use by an S corporation and its shareholder only.

For calendar year 2004 or fiscal year beginning month day year 2004, and ending month day year

Shareholder's identifying number 410-68-xxxx	California corporation number D-1153506
Shareholder's name, address, and ZIP Code SHAREHOLDER# 24 MICHAEL Y. ROOS 515 S. FLOWER ST., SUITE 3500 LOS ANGELES, CA 90071	Corporation's name, address, and ZIP Code CALIFORNIA COMMERCE CLUB, INC. 6131 E. TELEGRAPH ROAD COMMERCE, CA 90040

A Shareholder's percentage of stock ownership at year end 0.276021%

B Tax shelter registration number _____ Type _____

C Check here if this is . (1) ☐ A final Schedule K-1 (2) ☐ An amended Schedule K-1

D What type of entity is this shareholder? . (1) ☐ Individual (2) ☐ Estate/Trust (3) ☐ Qualified Exempt Organization

E Is this shareholder a nonresident of California? → ☐ Yes . ☒ No

Caution Refer to the shareholder's instructions for Schedule K-1 (100s) before entering information from this schedule on your California tax return

	(a) Pro-rata share items	(b) Amount from federal Schedule K-1 (1120S)	(c) California adjustment	(d) Total amounts using California law Combine (b) and (c) where applicable	(e) California source amounts and credits
1	Ordinary income (loss) from trade or business activities . .	59,425.	3,500	62,925	62,925
2	Net income (loss) from rental real estate activities	2,274	23	2,297	2,297
3	Net income (loss) from other Rental activities				
4	Portfolio income (loss) a Interest	221	-108	113	113
	b Dividends				
	c Royalties. . .				

Appendix H

	(a) Pro-rata share items	(b) Amount from federal Schedule K-1 (1120S)	(c) California adjustment	(d) Total amounts using California law Combine (b) and (c) where applicable	(e) California source amounts and credits
	4 Portfolio income (loss)				
	d Net short –term capital gain (loss)				
	e Net long-term capital gain (loss)				
	f Other portfolio income (loss) Attach Schedule				
	5 Net gain (loss) under IRC Section 1231 (other than due to casualty or theft)	-230		-230	-230
	6 Other income (loss) Attach Schedule				
	7 Charitable contributions	1,097		1,097	
	8 Expense deduction for recovery property (R&TC Sections 17267 2, 17267 6 and 17268, and IRC Section 179) Attach Schedule				
	9 Deductions related to portfolio income (loss) Attach schedule				
	10 Other income (loss) Attach schedule				
	11 a Interest expense on investment debts				
	b (1) Investment income included on line 4a, line 4b, line 4c, and line 4f above	221	-108	113	113
	(2) Investment expenses included on line 9 above				
	12 a Low-income housing credit See instructions Attach schedule				
	b Credits related to rental real estate activities other than on line 12 (a) Attach schedule				

Appendix H

	(a) Pro-rata share items	(b) Amount from federal Schedule K-1 (1120S)	(c) California adjustment	(d) Total amounts using California law Combine (b) and (c) where applicable	(e) California source amounts and credits
	12 (con't) c Credits related to other rental activities See instructions Attach schedule				
	13 Other credits Attach schedule				

Appendix I

SUPERIOR COURT, CALIFORNIA OF RIVERSIDE, STATE OF CALIFORNIA

☐ BANNING 155 E Hays, Banning, Ca 92222

☐ BLYTHE 265 North Broadway, Blythe, Ca 92225

☐ CORONA 505 Buena Vista, Corona, Ca 91720-1397

☐ HEMET 220 N state St , Hemet, Ca 92543

X☐ INDIO 46200 Oasis St , Indio, Ca 92201

☐ LAKE ELSINORE 117 S Langstaff, Lake Elsinore, Ca 92530

☐ MORENO VALLEY 13800 Ave D201, Moreno Valley, Ca 92553-3338

X☐ PALM SPRINGS 3255 E Tahquitz Canyon Way, Palm Springs, Ca 92262

☐ PERRIS 227 N "D" St., Riverside, Ca 92370

☐ RIVERSIDE 4100 Main St , Riverside, Ca 92501

☐ TEMECULA 41002 County Center Dr , #100, Temecula, Ca 92501

To: Lorna Line Roos

Date: 4-15-08

Re: Walter Louis Roos

Case # None Found

Appendix I

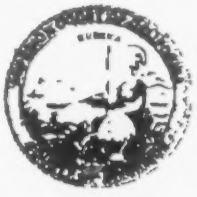
_____ We have researched our probate records pursuant to your request. Given the information provided, there is no indication of probate case activity for this individual for the year(s) 1970-present

Our record search includes the Superior Court for Riverside County, Indio Branch only. Includes Palm Springs.

_____ The Court will provide copies of the complaint and the docket for a charge of $.50 per page, and to certify each case as true copies, there will be an additional charge of $15.00. You may enclose a check payable to "Clerk of the Court" with a notation that the amount of the check shall not exceed "amount" of dollars.

_____ OTHER: _____

By: "s/" J Aguirre
Deputy Clerk



Appendix J

Michael F. Bowler III, Esquire [State Bar No. 43243]
David E. kenney, Esquire [State Bar No. 114412]
KARNS & KARABIAN
900 Wilshire Boulevard, Suite 530
Los Angeles, CA 90017-4706
Attorney for Petitioner Michael Y. Roos

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

Oct 27 2004

A. COSIO

SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY OF RIVERSIDE

In re the Estate of :) Case No. INP 018278
MALISSA WILLIAMSON ROOS,) ORDER
Deceased,) SETTLING THE FINAL
) ACCOUNT AND REPORT
) OF ADMINISTRATION AND
) FINAL DISTRIBUTION

The Petition for an Order Settling the Final Account and Report of Administration and for Final

Appendix J

Distribution came on regularly for hearing in Department 1B of the above- entitled court on October 18, 2004.

There was no opposition to the petition.

On evidence given to the satisfaction of the court, the court finds as follows:

1. Notice of the time and place of the hearing was given as required by California Probate Code Section 11601.
2. The account and report covers the period from September 15, 2003, to September 1, 2004, inclusive. The account and report are full, verified, true and correct.
3. Notice to credits was published in the manner prescribed by California Probate Code Section 9001. Notice of administration under California Probate Code Sections 9050-9052 is not required in this manner.

Appendix J

***

1

Order settling the Final Account and Report of Administration and Final Distribution

4. The time for filing creditor's claims against this estate has expired. No claims were filed.
5. A federal estate tax return has been filed for this estate. The estate taxes have been paid.
6. Federal and state estate income tax returns have been filed for the estate and the amount shown on said returns as payable has been paid.
7. No personal property taxes are due or payable by this estate.
8. The executor f the decedent's Will and Codicil waives all statutory commission in this estate.
9. The attorneys for the executor waive all of the statutory fees in this estate.

Appendix J

10. The estate is in conditioned to be closed. All debts and expenses of administration will be paid pursuant to the request.
11. A request for special notice has been filed in this estate. Notice and a copy of this order will be given pursuant to the request.
12. All of the property of the estate was the separate property of the decedent.
13. The property should be distributed as hereinafter ordered.

IT IS ORDERED THAT:

1. The Final Account and Report of Michael Y. Roos, as personal representative of the Estate of Malissa Williamson Roos, deceased, is approved and all acts and transactions of the personal representative relating to matters in the report are ratified and confirmed, and the final

account covering the period from September 15, 2003, to September 1, 2004, inclusive, is settled and allowed as filed.

2. The personal representative shall distribute the following described property in the estate to the following named persons:

    a.) Michael Y. Roos, the sum of $1,520.00 in cash and one-third of the personal property;

    ***

Appendix J

b.) Christine Roos Rucker, the sum of $1,520.00 in cash and one-third of the personal property;

c.) Melissa Roos Walker, the sum of $1,520.00 in cash and one-third of the personal property;

d.) Shelby Ann Roos, the sum of $305.00 in cash;

e.) Melissa Marie Roos, the sum of $305.00 in cash;

f.) Catherine Michael Roos, the sum of $305.00 in cash;

g.) Caroline Will Roos, the sum of $305.00 in cash;

h.) Peter Christine Rucker, the sum of $305.00 in cash;

Appendix J

i.) Walter Jordan Rucker, the sum of $305.00 in cash;

j.) Katherine Mary Walker, the sum of $305.00 in cash;

k.) Christopher Walker, the sum of $305.00 in cash; and

l.) Ann Marie Pera Roos, the sum of $305.00 in cash.

3. Karns & Karabian, Attorneys at Law, are reimbursed the $940.63 in costs it advanced the estate.

4. A decree be made for distribution of all remaining property in which the decedent or the estate may have an interest whether described herein or not, equally to the following individuals, up to $4,695.00 each to Shelby Ann Roos, Melissa Marie Roos, Catherine Michael Roos, Caroline Will Roos,

Appendix J

Peter Christian Rucker, Walter Jordan Rucker, Katherine Mary Walker, Christopher Walker, and Ann Marie Pera Roos and then to Michael Y. Roos, Christine Roos Rucker and Melissa Roos Walker, one-third each.

Dated: 10/26, 2004.

"s/" Robert Taylor

JUDGE OF THE SUPERIOR COURT

Appendix K

SUPERIOR COURT OF THE STATE OF CALIFORNIA
THE COUNTY OF LOS ANGELES
DEPARTMENT CE83 HON. RUDOLPH A. DIAZ, JUDGE

IN RE THE MARRIAGE OF:)
LORNA ROOS,)
PETITIONER,)
AND) NO. BD202859
MICHAEL ROOS,)
RESPONDENT,) COPY
_____)

REPORTER'S TRANSCRIPT OF PROCEEDINGS
April 27, 2009

APPEARANCES:

Appendix k

FOR PETITIONER:

BY: Lorna Roos, in Propria Persona

FOR RESPONDENT:

Goodman and Metz Law Offices

By: Jordan Metz

Attorney at Law

17043 Ventura Boulevard,

Encino California 91316

818. 386.2880

Reported by J. Hollifield, CSR 12564

Official Reporter

Appendix k

THE PETITIONER: I have the documents here --

THE COURT: -- haven't seen any evidence --

THE PETITIONER: -- that he actually --

THE COURT: -- of fraud --

THE PETITIONER: -- signed it over.

THE COURT: -- and, accordingly, the court is Denying the motion for -- to set aside the judgment of The court.

THE PETITIONER: And you're basing this on what?

THE COURT: **On the lack of proof.**

THE PETITIONER: Well, we have the information That we presided [sic] to the Court is quite substantial. And There's fraud. There's actual documents --

Appendix k

(Simultaneous colloquy.)

THE COURT: -- to make argument, ma'am.

PETITIONER: No, no, no. The actual documents –

THE COURT: The argument's –

(Simultaneous colloquy.)

THE PETITIONER: -- are fraud. You can't take Somebody off title that owned real property and then do a Sham trust and then also claim to the Court that you have --

Appendix k

SUPERIOR COURT OF THE STATE CALIFORNIA
THE COUNTY OF LOS ANGELES
DEPARTMENT CE83 HON. RUDOLPH A. DIAZ, JUDGE

IN RE THE MARRIAGE OF:	)	
LORNA ROOS,	)	
PETITIONER,	)	
AND	)	NO. BD 202859
MICHAEL ROOS,	)	REPORTER'S
RESPONDENT,	)	CERTIFICATE
	)	

I, J. Hollifield, Official Reporter of the Superior Court of the State of California, for the County of Los Angeles, do hereby certify that the foregoing Pages 1 through 10 comprise a full, true, and correct transcript

Appendix k

Of the proceedings taken in the above entitled cause on April 27, 2009.

Dated this 16th of May, 2009.

"s/"

J. Hollifield

CSR 12564

OFFICIAL REPORTER

Appendix L

ROOS FAMILY LIVING TRUST

SCHEDULE A

1. California Commerce Club, Inc. stock (20 shares).